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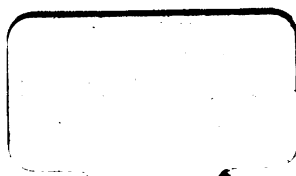
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ANNOTATED ACTS OF CONGRESS

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**FIVE CIVILIZED TRIBES  
AND THE  
OSAGE NATION**

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COMPILED AND ANNOTATED BY

*Perkins*  
**C. L. THOMAS**

OF THE LAW FIRM OF RAMSEY AND THOMAS  
MUSKOGEE, OKLAHOMA

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PUBLISHED BY

E. W. STEPHENS PUBLISHING CO.

COLUMBIA, MISSOURI

1913

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## **PREFACE**

The book herewith presented is the result of a keenly felt want for a handy, pocket sized volume containing a compilation of all of the various Acts of Congress pertaining to the lands and affairs of the Five Civilized Tribes of Indians and the Osage Nation. We have endeavored to supply this want, and have here compiled all of such Acts of Congress, commencing with the Act of 1889 establishing the first United States Court in the Indian Territory. We have then set forth all subsequent Acts, parts of Acts, Treaties and Agreements, of more than mere local, temporary or individual significance, pertaining to the affairs of the Five Civilized Tribes and the Osage Nation, which have been passed and approved up to and including the year 1912. We have also set forth the laws of descent of the various Indian Tribes. Each Act of Congress, construed, cited or referred to, has been carefully annotated, the annotations covering the following reports: All of the decisions of the Court of Appeals for the Indian Territory; The decisions of the Supreme Court of Oklahoma, up to and including Volume 33 of the Oklahoma Reports, and Volume 129 of the Pacific Reporter; The decisions of the United States Courts for the Eastern District of Oklahoma and of the Circuit Court of Appeals for the Eighth Circuit, up to and including Volume 200 of the Federal Reporter; the decisions of the Supreme Court of the United States up to and including Volume 225 of the United States Reports. We have had inserted at the conclusion of various Acts, blank pages to permit of further annotations by one sufficiently interested. We believe that this book will prove to be a time and labor saver, and trust that it will meet with the approval of the profession.

RAMSEY and THOMAS.



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ANNOTATED ACTS OF CONGRESS

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FIVE CIVILIZED TRIBES  
AND THE  
OSAGE NATION



# ANNOTATED ACTS OF CONGRESS

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## FIVE CIVILIZED TRIBES AND THE OSAGE NATION

SEC. 2079, U. S. REVISED STATUTES.

Approved March 3, 1871.

(18 Stat. L. 566.)

### **No Future Treaties with Indians.**

No Indian Nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, but no obligation of any treaty lawfully made and ratified with any such Indian Nation or tribe prior to March third, eighteen hundred and seventy-one shall be hereby invalidated or impaired.

Dukes v. McKenna, 4 I. T. 156, 69 S. W. 832.

Stephens v. Cherokee Nation, 174 U. S. 483, 43 L. Ed. 1041.

Cherokee Nation v. Hitchcock, 187 U. S. 299, 47 L. Ed. 183.

Lone Wolf v. Hitchcock, 187 U. S. 556, 47 L. Ed. 299.

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### EXTRACTS FROM

AN ACT TO ESTABLISH A UNITED STATES COURT  
IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES.

(25 Stat. L. 783.)

Approved March 1, 1889.

### **Indian Territory United States Court Established.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That a United States court is hereby established, whose jurisdiction shall extend over the Indian Territory, bounded as follows, to-wit:

North by the State of Kansas, east by the States of Missouri and Arkansas, south by the State of Texas, and west by the State of Texas and the Territory of New Mexico.

And a judge shall be appointed for said court by the President of the United States, by and with the advice and consent of the Senate, who shall hold his office for a term of four years, and until his successor is appointed and qualified, and receive a salary of three thousand five hundred dollars per annum, to be paid from the Treasury of the United States in like manner as the salaries of judges of the United States district courts.

St. Louis & S. F. Ry. Co. v. O'Loughlin, 49 Fed. 440.

Pyeatt v. Powell, 51 Fed. 551.

Gowen v. Harley, 56 Fed. 973.

Leak Glove Manuf'g Co. v. Needles, 69 Fed. 68.

#### **Attorney and Marshal—Deputies.**

SECTION 2. That there shall be appointed by the President, by and with the advice and consent of the Senate, an attorney and marshal for said court, who shall continue in office for four years, and until their successors be duly appointed and qualified, and they shall discharge the like duties and receive the same fees and salary as now received by the United States attorney and marshal for the western district of Arkansas.

The said marshal may appoint one or more deputies, who shall have the same powers, perform the like duties, and be removable in like manner as other deputy United States marshals; and said marshal shall give bond, with two or more sureties, to be approved by the judge of said court in the sum of ten thousand dollars, conditioned as by law required in regard to the bonds of other United States marshals.

#### **Clerk.**

SEC. 3. That a clerk of said court shall be appointed by the judge thereof, who shall reside and keep his office at the place of holding said court. Said clerk shall perform the same duties, be subject to the same liabilities, and shall receive the same fees and compensation as the Clerk of the United States

court of the western district of Arkansas; and before entering upon his duties he shall give bond in the sum of ten thousand dollars, with two or more sureties, to be approved by the judge of said court, conditioned that he will discharge his duties as required by law.

**Official Oath of Judge, Clerk and Marshal.**

SEC. 4. That the judge appointed under the provision of this act shall take the same oath, required by law to be taken by the judges of the district courts, of the United States; and the oath, when taken as in such cases provided, shall be duly certified by the officer before whom the same shall have been taken to the clerk of the court herein established, to be by him recorded in the records of said court.

The clerk, marshal, and deputy marshals shall take before the judge of said court the oath required by law of the clerk, marshal, and deputy marshals of the United States district courts, the same to be entered of record in said court as provided by law in like cases.

**Jurisdiction of Offenses.**

SEC. 5. That the court hereby established shall have exclusive original jurisdiction over all offenses against the laws of the United States committed within the Indian Territory as in this act defined, not punishable by death or by imprisonment at hard labor.

*In re Bonner*, 57 Fed. 184.

*Harless v. U. S.*, 88 Fed. 97.

*Ex parte Mayfield*, 141 U. S. 107, 35 L. Ed. 635.

*Ex parte Johnson*, 167 U. S. 119, 42 L. Ed. 103.

*Laurel Oil Co. v. Morrison*, 212 U. S. 291, 53 L. Ed. 517.

**Jurisdiction—Civil—None in Suits Between Indians.**

SEC. 6. That the court hereby established shall have jurisdiction in all civil cases between citizens of the United States who are residents of the Indian Territory, or between citizens

of the United States, or of any State or Territory therein, and any citizen of or person or persons residing or found in the Indian Territory, and when the value of the thing in controversy, or damages or money claimed shall amount to one hundred dollars or more:

Provided, That nothing herein contained shall be so construed as to give the court jurisdiction over controversies between persons of Indian blood only:

And provided further, That all laws having the effect to prevent the Cherokee, Choctaw, Creek, Chickasaw and Seminole Nations, or either of them, from lawfully entering into leases or contracts for mining coal for a period not exceeding ten years, are hereby repealed;

And said courts shall have jurisdiction over all controversies arising out of said mining leases or contracts and of all questions of mining rights or invasions thereof where the amount involved exceeds the sum of one hundred dollars.

That the provisions of chapter eighteen, title thirteen, of the Revised Statutes of the United States shall govern such court, so far as applicable: Provided, That the practice, pleadings, and forms of proceeding in civil cases shall conform, as near as may be, to the practice, pleadings, and forms of proceeding existing at the time in like causes in the courts of record of the State of Arkansas, any rule of court to the contrary notwithstanding; and the plaintiff shall be entitled to like remedies, by attachment or other process against the property of the defendant, and for like causes, as now provided by the laws of said State.

The final judgment or decree of the court hereby established, in cases where the value of the matter in dispute, exclusive of costs, to be ascertained by the oath of either party or of other competent witnesses, exceeds one thousand dollars may be reviewed and reversed or affirmed in the Supreme Court of the United States upon writ of error or appeal, in the same manner and under the same regulations as the final judgments and decrees of a circuit court.

Wilson v. Owens, 1 I. T. 163, 38 S. W. 976.  
 Bohart v. Hull, 2 I. T. 145, 47 S. W. 306.  
 Pace v. Merrill Drug Co., 2 I. T. 218, 48 S. W. 1061.  
 Crowell v. Young, 4 I. T. 148, 64 S. W. 607, 829.  
 In re Davis Estate, 32 Okla. 209, 122 Pac. 547.  
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 Standley v. Roberts, 59 Fed. 836.  
 McBride v. Farrington, 131 Fed. 805.  
 Jones v. Baer, 149 U. S. —, 37 L. Ed. 947.

**Terms of Court.**

SEC. 7. That two terms of said court shall be held each year at Muskogee, in said Territory, on the first Monday in April and September, and such special sessions as may be necessary for the dispatch of the business in said court at such times as the judge may deem expedient; and he may adjourn such special sessions to any other time previous to a regular term; and the marshal shall procure suitable rooms for the use and occupation of the court hereby created.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

**Court Proceedings—Juries.**

SEC. 8. That all proceedings in said court shall be had in the English language; and bona-fide male residents of the Indian Territory, over twenty-one years of age, and understanding the English language sufficiently to comprehend the proceedings of the court, shall be competent to serve as jurors in said court but shall be subject to exemptions and challenges as provided by law in regard to jurors in the district court for the western district of Arkansas.

Carter v. U. S., 1 I. T. 342, 37 S. W. 204.

Nat'l Bank of Boyertown v. Shufelt, 82 S. W. 927, 145 Fed. 509.

(Sections 9 to 28, provide for selection of juries, and define certain criminal offenses.)

ACT MAY 2, 1890.

EXTRACTS FROM  
AN ACT TO PROVIDE A TERRITORIAL GOVERNMENT  
FOR THE TERRITORY OF OKLAHOMA, TO ENLARGE THE  
JURISDICTION OF THE UNITED STATES COURT IN THE INDIAN  
TERRITORY, AND FOR OTHER PURPOSES.

(26 Stat. L. 81.)

Approved May 2, 1890.

**Indian Territory Defined—Jurisdiction of Courts—Tribal Con-  
tracts.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED:

SECTION 29. That all that part of the United States which is bounded on the north by the State of Kansas, on the east by the States of Arkansas and Missouri, on the south by the State of Texas, and on the west and north by the Territory of Oklahoma as defined in the first section of this act, shall, for the purposes of this act, be known as the Indian Territory;

And the jurisdiction of the United States court established under and by virtue of an act entitled "An Act to establish a United States court in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine, is hereby limited to and shall extend only over the Indian Territory as defined in this section; that the court established by said act shall, in addition to the jurisdiction conferred thereon by said act, have and exercise within the limits of the Indian Territory jurisdiction in all civil cases in the Indian Territory, except cases over which the tribal courts have exclusive jurisdiction;

And in all cases on contracts entered into by citizens of any tribe or nations with citizens of the United States in good faith and for valuable consideration, and in accordance with the laws of such tribe or nation, and such contracts shall be

deemed valid and enforced by such courts; and in all cases over which jurisdiction is conferred by this act or may hereafter be conferred by act of Congress; and the provisions of this act hereinafter set forth shall apply to said Indian Territory only.

**Terms of Court—Three Divisions—Jurors—Prosecutions—Civil Suits—Jurisdiction of Indian Courts.**

SEC. 30. That for the purpose of holding terms of said court, said Indian Territory is hereby divided into three divisions, to be known as the first, second, and third division.

The first division shall consist of the country occupied by the Indian tribes in the Quapaw Indian Agency and all that part of the Cherokee country east of the ninety-sixth meridian and all of the Creek country; and the place for holding said court therein shall be Muskogee.

The second division shall consist of the Choctaw country, and the place for holding said court therein shall be at South McAllister.

The third division shall consist of the Chickasaw and Seminole countries, and the place for holding said court therein shall be at Ardmore.

That the Attorney-General of the United States may, if in his judgment it shall be necessary, appoint an assistant attorney for said court.

And the clerk of said court shall appoint a deputy clerk in each of said divisions in which said clerk does not himself reside at the place in such division where the terms of said court are to be held. Such deputy clerk shall keep his office and reside at the place appointed for holding said court in the division of such residence, and shall keep the records of said court for such division, and in the absence of the clerk may exercise all the official powers of the clerk within the division for which he is appointed:

Provided, That the appointment of such deputies shall be approved by said United States court in the Indian Territory,

and may be annulled by said court at its pleasure, and the clerk shall be responsible for the official acts and negligence of his respective deputies.

The Judge of said court shall hold at least two terms of said court each year in each of the divisions aforesaid, at such regular times as said judge shall fix and determine, and shall be paid his actual traveling expenses and subsistence while attending and holding court at places other than Muskogee.

And jurors for each term of said court, in each division, shall be selected and summoned in the manner provided in said act, three jury commissioners to be selected by said court for each division, who shall possess all the qualifications and perform in said division all the duties required of the jury commissioners provided for in said act.

All prosecutions for crimes or offenses hereafter committed in said Indian Territory shall be cognizable within the division in which such crime or offense shall have been committed.

And all civil suits shall be brought in the division in which the defendant or defendants reside or may be found; but if there be two or more defendants residing in different divisions, the action may be brought in any division in which either of the defendants resides or may be found.

And all cases shall be tried in the division in which the process is returnable as herein provided, unless said judge shall direct such case to be removed to one of the other divisions:

Provided, however, That the judicial tribunals of the Indian nations shall retain exclusive jurisdiction in all civil and criminal cases arising in the country in which members of the nation by nativity or by adoption shall be the only parties; and as to all such cases the laws of the State of Arkansas extended over and put in force in said Indian Territory by this act shall not apply.

Standley v. Roberts, 59 Fed. 836.

Ex parte Mayfield, 141 U. S. 107, 35 L. Ed. 635.

Alberty v. United States, 162 U. S. 500, 40 L. Ed. 1051.

Talton v. Mayes, 163 U. S. 377, 41 L. Ed. 196.

Lucas v. United States, 163 U. S. 613, 41 L. Ed. 282.

Nofire v. United States, 164 U. S. 657, 41 L. Ed. 588.

Stephens v. Cherokee Nation, 174 U. S. 483, 43 L. Ed. 1041.

**Arkansas Laws Applicable—Attachments—Judgments—Suits  
Between Indians—Violations of Indian Laws.**

SEC. 31. That certain general laws of the State of Arkansas in force at the close of the session of the general assembly of that State of eighteen hundred and eighty-three, as published in eighteen hundred and eighty-four in the volume known as Mansfield's Digest of the Statutes of Arkansas, which are not locally inapplicable or in conflict with this act or with any law of Congress, relating to the subjects specially mentioned in this section, are hereby extended over and put in force in the Indian Territory, until Congress shall otherwise provide, that is to say, the provisions of the said general statutes of Arkansas relating to administration.

Chapter one, and the United States court in the Indian Territory herein referred to shall have and exercise the powers of courts of probate under said laws; to public administrators.

Chapter two, and the United States marshal of the Indian Territory shall perform the duties imposed by said chapter on the sheriffs in said State;

To arrest and bail, civil, chapter seven;

To assignment for benefit of creditors, chapter eight;

To attachments, chapter nine;

To attorneys at law, chapter eleven;

To bills of exchange and promissory notes, chapter fourteen;

To civil rights, chapter eighteen;

To common and statute law of England, chapter twenty; ✓✓

To contempts, chapter twenty-six;

To municipal corporations, chapter twenty-nine, division one;

To costs, chapter thirty;

To descents and distributions, chapter forty-nine;

To divorce, chapter fifty-two, and said court in the Indian

Territory shall exercise the powers of the circuit courts of Arkansas under this chapter;

To dower, chapter fifty-two;

To evidence, chapter fifty-nine;

To execution, chapter sixty;

To fees, chapter sixty-three;

To forcible entry and detainer, chapter sixty-seven;

To frauds, statute of, chapter sixty-eight;

To fugitives from justice, chapter sixty-nine;

To gaming contracts, chapter seventy;

To guardians, curators, and wards, chapter seventy-three, and said court in the Indian Territory shall appoint guardians and curators;

To habeas corpus, chapter seventy-four;

To injunction, chapter eighty-one;

To insane persons and drunkards, chapter eighty-two, and said court in the Indian Territory shall exercise the powers of the probate courts of Arkansas under this chapter;

To joint and several obligations and contracts, chapter eighty-seven;

To judgments and decrees, chapter eighty-eight;

To judgments summary, chapter eighty-nine;

To jury, chapter ninety;

To landlord and tenant, chapter ninety-two;

To legal notices and advertisements, chapter ninety-four;

To liens, chapter ninety-six;

To limitations, chapter ninety-seven;

To mandamus and prohibition, chapter one hundred;

To marriage contracts, chapter one hundred and two;

To marriages, chapter one hundred and three;

To married women, chapter one hundred and four;

To money and interest, chapter one hundred and nine;

To mortgages, chapter one hundred and ten;

To notaries public, chapter one hundred and eleven, and said court in the Indian Territory shall appoint notaries public under this chapter;

To partition and sale of lands, chapter one hundred and fifteen;

To pleadings and practice, chapter one hundred and nineteen;

To recorders, chapter one hundred and twenty-six;

To replevin, chapter one hundred and twenty-eight;

To venue, change of, chapter one hundred and fifty-three;

And to wills and testaments, chapter one hundred and fifty-five;

And wherever in said laws of Arkansas the courts of record of said State are mentioned the said court in the Indian Territory shall be substituted therefor;

And whenever the clerks of said courts are mentioned in said laws the clerk of said court in the Indian Territory and his deputies, respectively, shall be substituted therefor;

And whenever the sheriff of the county is mentioned in said laws the United States marshal of the Indian Territory shall be substituted therefor, for the purpose, in each of the cases mentioned, of making said laws of Arkansas applicable to the Indian Territory.

That no attachment shall issue against improvements on real estate while the title to the land is vested in any Indian Nation, except where such improvements have been made by persons, companies, or corporations operating coal or other mines, railroads, or other industries under lease or permission of law of an Indian national council, or charter, or law of the United States.

That executions upon judgments obtained in any other than Indian courts shall not be valid for the sale or conveyance of title to improvements, made upon lands owned by an Indian nation, except in the cases wherein attachments are provided for.

Upon a return of nulla bona, upon an execution upon any judgment against an adopted citizen of any Indian tribe, or against any person residing in the Indian country and not a citizen thereof, if the judgment debtor shall be the owner of

any improvements upon real estate within the Indian Territory in excess of one hundred and sixty acres occupied as a homestead, such improvements may be subjected to the payment of such judgment by a decree of the court in which such judgment was rendered. Proceedings to subject such property to the payment of judgments may be by petition, of which the judgment debtor shall have notice as in the original suit. If on the hearing the court shall be satisfied from the evidence that the judgment debtor is the owner of improvements on real estate, subject to the payment of said judgment, the court may order the same sold, and the proceeds, or so much thereof as may be necessary to satisfy said judgment and costs, applied to the payment of said judgment; or if the improvement is of sufficient rental value to discharge the judgment within a reasonable time the court may appoint a receiver, who shall take charge of such property and apply the rental receipts thereof to the payment of such judgment, under such regulations as the court may prescribe. If under such proceeding any improvement is sold only citizens of the tribe in which said property is situate may become the purchaser thereof.

The Constitution of the United States and all general laws of the United States which prohibit crimes and misdemeanors in any place within the sole and exclusive jurisdiction of the United States, except in the District of Columbia, and all laws relating to national banking associations shall have the same force and effect in the Indian Territory as elsewhere in the United States.

But nothing in this act shall be so construed as to deprive any of the courts of the civilized nations of exclusive jurisdiction over all cases arising wherein members of said nations, whether by treaty, blood, or adoption, are the sole parties, nor so as to interfere with the right and power of said civilized nations to punish said members for violation of the statutes and laws enacted by their national councils where such laws are not contrary to the treaties and laws of the United States.

Wilson v. Owens, 1 I. T. 163, 38 S. W. 976, 86 Fed. 572.  
 Carter v. U. S., 1 I. T. 342, 37 S. W. 204.  
 Graham v. Stowe, 1 I. T. 405, 37 S. W. 837.  
 Noble v. Worthy, 1 I. T. 523, 45 S. W. 137.  
 Schwab Clothing Co. v. Cromer, 1 I. T. 661, 43 S. W. 951.  
 Myers v. Mathis, 2 I. T. 3, 46 S. W. 178.  
 White v. White, 2 I. T. 35, 47 S. W. 355.  
 In re Delk's Estate, 2 I. T. 572, 52 S. W. 52.  
 Kimberlin v. Commission, 3 I. T. 24, 53 S. W. 467.  
 Maxey v. Wright, 3 I. T. 252, 54 S. W. 807.  
 Springston v. Wheeler, 3 I. T. 393, 58 S. W. 557.  
 In re Grayson et al., 3 I. T. 499, 61 S. W. 984.  
 Arnold v. Campbell, 3 I. T. 552, 64 S. W. 532.  
 Mays v. Fricberg, 3 I. T. 774, 49 S. W. 52.  
 Crowell v. Young, 4 I. T. 36, 148, 64 S. W. 607, 69 S. W. 829.  
 Luce v. Garrett, 4 I. T. 54, 64 S. W. 613.  
 Engleman v. Cable, 4 I. T. 236, 69 S. W. 894.  
 Foreman v. M. V. R. Co., 7 I. T. 478, 104 S. W. 806.  
 Scroggins v. Oliver, 7 I. T. 740, 104 S. W. 1161.  
 Burdett v. Burdett, 26 Okla. 416, 109 Pac. 922.  
 England Bros. v. Young, 26 Okla. 494, 110 Pac. 895.  
 Bruner v. Sanders, 26 Okla. 673, 110 Pac. 730.  
 Keel v. Ingersol, 27 Okla. 117, 111 Pac. 214.  
 MaHarry v. Eatman, 29 Okla. 46, 116 Pac. 935.  
 Frank Oil Co. v. Belleview Oil & Gas Co., 29 Okla. 719, 119 Pac.  
     260.  
 In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.  
 Steele v. Kelley, 32 Okla. 547, 122 Pac. 934.  
 Salmon v. Mills, 49 Fed. 333.  
 Eddy v. LaFayette, 49 Fed. 798.  
 McClellan v. Pyeatt, 50 Fed. 686, 66 Fed. 843.  
 Pyeatt v. Powell, 51 Fed. 551.  
 Burton v. Platter, 53 Fed. 901.  
 Ardmore Coal Co. v. Bevil, 61 Fed. 757.  
 Leak Glove Manuf'g Co. v. Needles, 69 Fed. 68.  
 Noyes v. Neel, 100 Fed. 555.  
 Evans-Snider Buell Co. v. McFadden, 105 Fed. 293.  
 Morrison v. Burnette, 154 Fed. 617.  
 Ex parte Mayfield, 141 U. S. 107, 35 L. Ed. 635.  
 Talton v. Mayes, 163 U. S. 377, 41 L. Ed. 196.

SEC. 32. That the word "county," as used in any of the laws of Arkansas which are put in force in the Indian Terri-

tory by the provisions of this act, shall be construed to embrace the territory within the limits of a judicial division in said Indian Territory; and whenever in said laws of Arkansas the word "county" is used, the words "judicial division" may be substituted therefor, in said Indian Territory, for the purpose of this act.

And whenever in said laws of Arkansas the word "State," or the words "State of Arkansas" are used, the word "Territory," or the words "Indian Territory," may be substituted therefor, for the purposes of this act, and for the purpose of making said laws of Arkansas applicable to the said Indian Territory.

But all prosecutions therein shall run in the name of the "United States."

Simon v. U. S., 4 I. T. 688, 76 S. W. 280.

Higgins v. Brown, 20 Okla. 355, 94 Pac. 703.

Welch v. Ladd, 29 Okla. 93, 116 Pac. 573.

#### **Arkansas Criminal Laws Applicable—Criminal Jurisdiction.**

SEC. 33. That the provisions of Chapter forty-five of the said general laws of Arkansas, entitled "Criminal law," except as to the crimes and misdemeanor mentioned in the provisions to this section, and the provisions of chapter forty-six of said general laws of Arkansas, entitled "Criminal Procedure," as far as they are applicable, are hereby extended over and put in force in the Indian Territory, and jurisdiction to enforce said provisions is hereby conferred upon the United States court therein:

Provided, That in all cases where the laws of the United States and the said criminal laws of Arkansas have provided for the punishment of the same offenses the laws of the United States shall govern as to such offenses:

And provided further, That the United States circuit and district courts, respectively, for the western district of Arkansas and the eastern district of Texas, respectively, shall continue to exercise exclusive jurisdiction as now provided by

law in the Indian Territory as defined in this act, in their respective districts as heretofore established, over all crimes and misdemeanors against the laws of the United States applicable to the said Territory, which are punishable by said laws of the United States by death or by imprisonment at hard labor, except as otherwise provided in the following sections of this act.

Watkins v. U. S., 1 I. T. 364, 41 S. W. 1044.

Williams v. U. S., 4 I. T. 204, 69 S. W. 849.

Glover v. U. S., 6 I. T. 262, 91 S. W. 41.

Ex parte Curlee, 20 Okla. 192, 95 Pac. 414.

Higgins v. Brown, 20 Okla. 355, 94 Pac. 703.

Ex parte Johnson, 167 U. S. 119, 42 L. Ed. 103.

(Sections 34 to 37 relate to crimes and criminal procedure.)

**Marriages—Tribal Marriages Valid.**

SEC. 38. The clerk and deputy clerks of said United States court shall have the power within their respective divisions to issue marriage licenses or certificates and to solemnize marriages. They shall keep copies of all marriage licenses or certificates issued by them, and a record book in which shall be recorded all licenses or certificates after the marriage has been solemnized, and all persons authorized by law to solemnize marriages shall return the license or certificate, after executing the same, to the clerk or deputy clerk who issued it, together with his return thereon.

They shall also be ex-officio recorders within their respective divisions, and as such they shall perform such duties as are required of recorders of deeds under the said laws of Arkansas, and receive the fees and compensation therefor which are provided in said laws of Arkansas for like service:

Provided, That all marriages heretofore contracted under the laws or tribal customs of any Indian nation now located in the Indian Territory are hereby declared valid, and the issue of such marriages shall be deemed legitimate and entitled to all inheritances of property or other rights, the same as in the case of the issue of other forms of lawful marriage:

Provided further, That said chapter one hundred and three of said laws of Arkansas shall not be construed so as to interfere with the operation of the laws governing marriage enacted by any of the civilized tribes, nor to confer any authority upon any officer of said court to unite a citizen of the United States in marriage with a member of any of the civilized nations until the preliminaries to such marriage shall have first been arranged according to the laws of the nation of which said Indian person is a member:

And provided further, That where such marriage is required by law of an Indian nation to be of record, the certificate of such marriage shall be sent for record to the proper officer, as provided in such law enacted by the Indian nation.

Oklahoma Land Co. v. Thomas, 127 Pac. 8.

**United States Commissioners—Jurisdiction.**

SEC. 39. That the United States court in the Indian Territory shall have all the powers of the United States circuit courts or circuit court judges to appoint commissioners within said Indian Territory, who shall be learned in the law, and shall be known as United States commissioners; but not exceeding three commissioners shall be appointed for any one division, and such commissioners when appointed shall have, within the district to be designated in the order appointing them, all the powers of commissioners of circuit courts of the United States.

They shall be ex-officio notaries public, and shall have power to solemnize marriages.

The provisions of chapter ninety-one of the said laws of Arkansas, regulating the jurisdiction and procedure before justices of the peace, are hereby extended over the Indian Territory;

And said commissioners shall exercise all the powers conferred by the laws of Arkansas upon justices of the peace within their districts; but they shall have no jurisdiction to try any cause where the value of the thing or the amount in controversy exceeds one hundred dollars.

Appeals may be taken from the final judgment of said commissioners to the United States court in said Indian Territory in all cases and in the same manner that appeals may be taken from the final judgments of justices of the peace under the provisions of said chapter ninety-one.

The said court may appoint a constable for each of the commissioner's districts designated by the court, and the constable so appointed shall perform all the duties required of constables under the provisions of chapter twenty-four and other laws of the State of Arkansas.

Each commissioner and constable shall execute to the United States, for the security of the public, a good and sufficient bond, in the sum of five thousand dollars, to be approved by the judge appointing him, conditioned that he will faithfully discharge the duties of his office and account for all moneys coming into his hands, and he shall take an oath to support the Constitution of the United States and to faithfully perform the duties required of him.

The appointments of United States commissioners by said court held at Muskogee, in the Indian Territory, heretofore made, and all acts in pursuance of law and in good faith performed by them, are hereby ratified and validated.

First Nat'l Bank of Vinita v. First Nat'l Bank of Pryor, 24 Okla. 140, 103 Pac. 685.

Evarts v. Town of Bixby, 24 Okla. 176, 103 Pac. 621.

Dennee v. Cromer, 114 Fed. 623.

#### **Crimes—Arrest—Procedure.**

SEC. 40. That persons charged with any offense or crime in the Indian Territory and for whose arrest a warrant has been issued, may be arrested by the United States marshal or any of his deputies, wherever found in said Territory, but in all cases the accused shall be taken, for preliminary examination, before the commissioner in the judicial division whose office or place of business is nearest by the route usually traveled to the place where the offense or crime was committed;

but this section shall apply only to crimes or offenses over which the courts located in the Indian Territory have jurisdiction:

Provided, That in all cases where persons have been brought before a United States commissioner in the Indian Territory for preliminary examination, charged with the commission of any crime therein, and where it appears from the evidence that a crime has been committed, and that there is probable cause to believe the accused guilty thereof, but that the crime is one over which the courts in the Indian Territory have no jurisdiction, the accused shall not, on that account, be discharged, but the case shall be proceeded with as provided in section ten hundred and fourteen of the Revised Statutes of the United States.

**Extradition of Fugitives from Justice.**

SEC. 41. That the judge of the United States Court in the Indian Territory shall have the same power to extradite persons who have taken refuge in the Indian Territory, charged with crimes in the States or other Territories of the United States, that may now be exercised by the governor of Arkansas in that State, and he may issue requisitions upon governors of States and other Territories, for persons who have committed offenses in the Indian Territory, and who have taken refuge in such States or Territories.

Ex parte Dickson, 4 I. T. 481, 69 S. W. 943.

**Appeals to United States Supreme Court.**

SEC. 42. That appeals and writs of error may be taken and prosecuted from the decisions of the United States court in the Indian Territory to the Supreme Court of the United States in the same manner and under the same regulations as from the circuit courts of the United States, except as otherwise provided in this act.

**Naturalization of Indians.**

SEC. 43. That any member of any Indian tribe or nation residing in the Indian Territory may apply to the United States

court therein to become a citizen of the United States, and such court shall have jurisdiction thereof and shall hear and determine such application as provided in the statutes of the United States;

And the Confederated Peoria Indians residing in the Quapaw Indian Agency, who have heretofore or who may hereafter accept their land in severalty under any of the allotment laws of the United States, shall be deemed to be, and are hereby, declared to be citizens of the United States from and after the selection of their allotments, and entitled to all the rights, privileges, and benefits as such, and parents are hereby declared from that time to have been and to be the legal guardians of their minor children without process of court:

Provided, That the Indians who become citizens of the United States under the provisions of this act do not forfeit or lose any rights or privileges they enjoy or are entitled to as members of the tribe or nation to which they belong.

Raymond v. Raymond, 1 I. T. 334, 37 S. W. 202.

Roff v. Burney, 168 U. S. 220, 42 L. Ed. 442.

SEC. 44. (Makes appropriation.)

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#### EXTRACTS FROM

Act of Congress, Approved March 1, 1895.

AN ACT TO PROVIDE FOR THE APPOINTMENT OF  
ADDITIONAL JUDGES OF THE UNITED STATES COURT  
IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES.

(28 Stat. L. 693.)

#### **Indian Territory—Three Judicial Districts Created.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the territory known as the Indian Territory, now within the jurisdic-

tion of the United States court in said Territory, is hereby divided into three judicial districts, to be known as the northern, central, and southern districts, and at least two terms of the United States court in the Indian Territory shall be held each year at each place of holding court in each district at such regular times as the judge for such district shall fix and determine.

The northern district shall consist of all the Creek country, all of the Seminole country, all of the Cherokee country, all of the country occupied by the Indian tribes in the Quapaw Indian Agency, and the town site of the Miami Townsite Company, and the places of holding courts in said district shall be at Vinita, Miami, Tahlequah, and Muskogee.

The central district shall consist of all the Choctaw country, and the places of holding courts in said district shall be at South McAllister, Atoka, Antlers, and Cameron.

The southern district shall consist of all the Chickasaw country, and the places of holding courts in said district shall be at Ardmore, Purcell, Pauls Valley, Ryan, and Chickasha.

Watkins v. U. S., 3 I. T. 281, 54 S. W. 819.

SECTION 2. That there shall be appointed by the President, by and with the advice and consent of the Senate, two additional judges of the United States court in said Indian Territory, who shall hold their respective offices for the term of four years from the date of their appointment, unless sooner removed as provided by law, one of whom shall be the judge of the northern district and the other shall be the judge of the southern district; and the judge of the United States court now in office shall, from and after said appointments, be the judge of the central district, and shall hold his office for the term for which he was appointed, and during the period of their service said judges shall reside in the judicial districts for which they are appointed; and said judges of the northern and southern districts shall each take the oath of office required by law

to be taken by the judges of the district courts of the United States.

*Eberle v. King*, 20 Okla. 55, 93 Pac. 748.

**Sale, etc., of Liquors Prohibited.**

SEC. 8. That any person, whether an Indian or otherwise, who shall, in said Territory, manufacture, sell, give away, or in any manner, or by any means furnish to anyone, either for himself or another, any vinous, malt, or fermented liquors, or any other intoxicating drinks of any kind whatsoever, whether medicated or not, or who shall carry, or in any manner have carried, into said Territory any such liquors or drinks, or who shall be interested in such manufacture, sale, giving away, furnishing to anyone, or carrying into said Territory any of such liquors or drinks, shall, upon conviction thereof, be punished by fine not exceeding five hundred dollars and by imprisonment for not less than one month nor more than five years.

*Parris v. U. S.*, 1 I. T. 43, 35 S. W. 243.

*U. S. v. Cohen*, 2 I. T. 474, 52 S. W. 38.

*U. S. v. Buckles*, 6 I. T. 319, 97 S. W. 1022.

*Parmenter v. U. S.*, 6 I. T. 530, 98 S. W. 340.

*Burch v. U. S.*, 7 I. T. 284, 104 S. W. 619.

*State v. 89 Casks of Beer*, 128 Pac. 267.

*In re Webb*, 225 U. S. 663, 56 L. Ed. 1248.

**Indian Territory Court of Appeals.**

SEC. 11. That the judges of said court shall constitute a court of appeals, to be presided over by the judge oldest in commission as chief justice of said court; and said court shall have such jurisdiction and powers in said Indian Territory and such general superintending control over the courts thereof as is conferred upon the supreme court of Arkansas over the courts thereof by the laws of said State, as provided by chapter forty of Mansfield's Digest of the Laws of Arkansas, and the provisions of said chapter, so far as they relate to the jurisdiction and powers of said supreme court of Arkansas as to appeals and writs of error, and as to the trial and decision

of causes, so far as they are applicable, shall be, and they are hereby, extended over and put in force in the Indian Territory; and appeals and writs of error from said court in said districts to said appellate court, in criminal cases, shall be prosecuted under the provisions of chapter forty-six of said Mansfield's Digest, by this act put in force in the Indian Territory. But no one of said judges shall sit in said appellate court in the determination of any cause in which an appeal is prosecuted from the decision of any court over which he presided. In case of said presiding judge being absent, the judge next oldest in commission shall preside over said appellate court, and in such case two of said judges shall constitute a quorum. In all cases where the court is equally divided in opinion, the judgment of the court below shall stand affirmed.

Writs of error and appeals from the final decision of said appellate court shall be allowed, and may be taken to the circuit court of appeals for the eighth judicial circuit in the same manner and under the same regulations as appeals are taken from the circuit courts of the United States. Said appellate court shall appoint its own clerk, who shall hold office at the pleasure of said court, and who shall receive a salary of one thousand two hundred dollars per annum. The marshal of the district wherein such appellate court shall be held shall be marshal of such court. Said appellate court shall be held at South McAllister, in the Choctaw Nation, and it shall hold two terms in each year, at such times and for such periods as may be fixed by the court.

*Porter v. Brook*, 21 Okla. 885, 97 Pac. 645.

*Harless v. U. S.*, 88 Fed. 97.

*Lewis v. Sittel*, 165 Fed. 157.

*Stephens v. Cherokee Nation*, 174 U. S. 444, 43 L. Ed. 1041.

*Laurel Oil Co. v. Morrison*, 212 U. S. 291, 52 L. Ed. 517.

AN ACT TO EXTEND THE JURISDICTION OF THE UNITED STATES CIRCUIT COURT OF APPEALS, EIGHTH CIRCUIT, OVER CERTAIN SUITS NOW PENDING THEREIN ON APPEAL AND WRIT OF ERROR FROM THE UNITED STATES COURT IN THE INDIAN TERRITORY.

Act of Congress, Approved February 8, 1896.

(29 Stat. L. 6.)

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the jurisdiction of the United States circuit court of appeals for the eighth judicial circuit be, and is hereby, extended to all suits at law or equity now pending therein upon writ of error to or appeal from the United States court in the Indian Territory in all cases wherein such writ of error or appeal would have vested jurisdiction in said circuit court of appeals but for the Act of Congress approved March first, eighteen hundred and ninety-five, entitled "An Act to provide for the appointment of additional judges of the United States court in the Indian Territory, and for other purposes."

Grady v. Newman, 1 I. T. 284, 37 S. W. 54.

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AN ACT TO PROHIBIT THE SALE OF INTOXICATING DRINKS TO INDIANS, PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES.

Act of Congress, Approved January 30, 1897.

(29 Stat. L. 506.)

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind

whatsoever, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication, to any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian a ward of the Government under charge of any Indian Superintendent or agent, or any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and any person who shall introduce or attempt to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, which term shall include any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be punished by imprisonment for not less than sixty days, and by a fine of not less than one hundred dollars for the first offense and not less than two hundred dollars for each offense thereafter: Provided, however, That the person convicted shall be committed until fine and costs are paid. But it shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority, in writing, from the War Department or any officer duly authorized thereunto by the War Department.

That so much of the Act of the twenty-third day of July, eighteen hundred and ninety-two, as is inconsistent with the provisions of this Act is hereby repealed.

United States v. Cohn, 2 I. T. 474, 52 S. W. 38.

United States v. Buckles, 6 I. T. 319, 97 S. W. 1022.

United States v. U. S. Express Co., 180 Fed. 1007.

United States Express Co. v. Friedman, 191 Fed. 673.

Mosier v. United States, 198 Fed. 54.

Evans v. Victor, 199 Fed. 504.

Clairmont v. United States, 225 U. S. 551, 56 L. Ed. 1201.

In re Webb, 225 U. S. 663, 56 L. Ed. 1248.

AN ACT RELATING TO MORTGAGES IN THE INDIAN TERRITORY.

Act of Congress, Approved February 3, 1897.

(29 Stat. L. 510.)

**Arkansas Law of Mortgages Applicable.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That section forty-seven hundred and forty-two of Mansfield's Digest of the Laws of Arkansas, heretofore put in force in the Indian Territory, is hereby amended by adding to said section the following:

"Provided, That if the mortgagor is a nonresident of the Indian Territory the mortgage shall be recorded in the judicial district in which the property is situated at the time the mortgage is executed. All mortgages of personal property in the Indian Territory heretofore executed and recorded in the judicial district thereof in which the property was situated at the time they were executed are hereby validated."

McFadden v. Blocker, 2 I. T. 260, 48 S. W. 1043, 3 I. T. 230, 54 S. W. 873.

Evans Snider Buel Co. v. McFadden, 105 Fed. 293, 185 U. S. 505, 46 L. Ed. 1012.

National Live Stock Commission Co. v. Talifero, 20 Okla. 180, 93 Pac. 983.

Hales v. Zander, 24 Okla. 246, 103 Pac. 669.

## CITIZENSHIP ACCORDED INDIANS.

Act of Congress, Approved March 3, 1901.

(31 Stat. L. 1447.)

AN ACT TO AMEND SECTION SIX, CHAPTER ONE  
HUNDRED AND NINETEEN, UNITED STATES STATUTES  
AT LARGE NUMBERED TWENTY-FOUR.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That section six of chapter one hundred and nineteen of the United States Statutes at Large numbered twenty-four, page three hundred and ninety, is hereby amended as follows, to wit: After the words "civilized life," in line thirteen of said section six, insert the words "and every Indian in Indian Territory."

Approved February 8, 1887.

(Section six of Chapter one hundred and nineteen United States Statutes at large numbered Twenty-four is as follows.)

(24 Stat. L. 388.)

That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law;

And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein,

and has adopted the habits of civilized life (here insert amending words), is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

*Zevely v. Weimer*, 5 I. T. 688, 82 S. W. 941.

*Godfrey v. Iowa Land & Trust Co.*, 21 Okla. 293, 95 Pac. 792.

*Western Investment Co. v. Kistler*, 22 Okla. 222, 97 Pac. 588.

*United States v. Allen*, 171 Fed. 907.

And see:

*Goodrum v. Buffalo*, 162 Fed. 817.

*Bowling v. U. S.*, 191 Fed. 19.

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AN ACT TO GRANT THE RIGHT OF WAY THROUGH  
THE OKLAHOMA TERRITORY AND THE INDIAN TERRITORY  
TO THE ENID AND ANADARKO RAILWAY COMPANY, AND FOR  
OTHER PURPOSES.

Act of Congress, Approved February 28, 1902.

(32 Stat. L. 43.)

**Right of Way—Location—Construction.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Enid and Andarko Railway Company, a corporation created under and by virtue of the laws of the Territory of Oklahoma, be, and the same is hereby invested and empowered with the right of locating, constructing, owning, equipping, operating, using, and maintaining a railway and telegraph and telephone line through the Territory of Oklahoma and the Indian Territory, beginning at a point on its railway between Anadarko and Watonga, in the Territory of Oklahoma, thence in an

easterly direction by the most practicable route to a point on the eastern boundary of the Indian Territory near Fort Smith, in the State of Arkansas, together with such branch lines to be built from any point on the line above described to any other point in the Indian Territory as said railway company may at any time hereafter decide to construct, with the right to construct, use, and maintain such tracks, turn-outs, sidings, and extensions as said company may deem it to its interest to construct along and upon the right of way and depot grounds hereby granted.

**Right of Way—Width—Stations—Reversion for Nonuser.**

SECTION 2. That said corporation is authorized to take and use for all purposes of a railway, and for no other purpose, a right of way one hundred feet in width through said Oklahoma Territory and said Indian Territory, and to take and use a strip of land two hundred feet in width; with a length of two thousand feet, in addition to right of way, for stations, for every eight miles of road, with the right to use such additional ground where there are heavy cuts or fills, as may be necessary for the construction and maintenance of the road-bed, not exceeding one hundred feet in width on each side of said right of way, or as much thereof as may be included in said cut or fill: Provided, That no more than said addition of land shall be taken for any one station: Provided further, That no part of the lands herein authorized to be taken shall be leased or sold by the company, and they shall not be used except in such manner and for such purposes only as shall be necessary for the construction and convenient operation of said railway, telegraph, and telephone lines; and when any portion thereof shall cease to be so used such portion shall revert to the nation or tribe of Indians from which the same shall have been taken.

**Damages—Compensation—Condemnation—Appraisal—Appeal.**

SEC. 3. That before said railway shall be constructed through any lands held by individual occupants according to

the laws, customs, and usages of any of the Indian nations or tribes through which it may be constructed, full compensation shall be made to such occupants for all property to be taken or damage done by reason of the construction of such railway. In case of failure to make amicable settlement with any occupant, such compensation shall be determined by the appraisement of three disinterested referees, to be appointed, one (who shall act as chairman) by the Secretary of the Interior, one by the chief of the nation to which said occupant belongs, and one by said railway company, who, before entering upon the duties of their appointment, shall take and subscribe, before a district judge, clerk of a district court, or United States commissioner, an oath that they will faithfully and impartially discharge the duties of their appointment, which oath, duly certified, shall be returned with their award to and filed with the Secretary of the Interior within sixty days from the completion thereof; and a majority of said referees shall be competent to act in case of the absence of a member, after due notice. And upon the failure of either party to make such appointment within thirty days after the appointment made by the Secretary of the Interior, the vacancy shall be filled by a judge of the United States court for the Indian Territory upon the application of the other party. The chairman of said board shall appoint the time and place for all hearings within the nation to which such occupant belongs: Each of said referees shall receive for his services the sum of four dollars per day for each day they are engaged in the trial of any case submitted to them under this Act, with mileage at five cents per mile. Witnesses shall receive the usual fees allowed by the courts of said nations. Costs, including compensation of the referees, shall be made a part of the award, and be paid by such railway company. In case the referees can not agree, then any two of them are authorized to make the award. Either party being dissatisfied with the finding of the referees shall have the right, within ninety days after the making of the award and notice of the same,

to appeal by original petition to the United States court for the Indian Territory, which court shall have jurisdiction to hear and determine the subject-matter of said petition, according to the laws of the Territory in which the same shall be heard provided for determining the damage when property is taken for railroad purposes. If upon the hearing of said appeal the judgment of the court shall be for a larger sum than the award of the referees, the cost of said appeal shall be adjudged against the railway company. If the judgment of the court shall be for the same sum as the award of the referees, then the costs shall be adjudged against the appellant. If the judgment of the court, shall be for a smaller sum than the award of the referees, then the costs shall be adjudged against the party claiming damages. When proceedings have been commenced in court, the railway company shall pay double the amount of the award into court to abide the judgment thereof, and then have the right to enter upon the property sought to be condemned and proceed with the construction of the railway.

**Freight and Passenger Charges—Carrying Mail.**

SEC. 4. That said railway company shall not charge the inhabitants of said Territory a greater rate of freight than the rate authorized by the laws of the Territory of Oklahoma for services or transportation of the same kind: Provided, That passenger rates on said railway shall not exceed three cents per mile. Congress hereby reserves the right to regulate the charges for freight and passengers on said railway and messages on said telegraph and telephone lines until a State government or governments shall exist in said Territory within the limits of which said railway, or a part thereof, shall be located; and then such State government or governments shall be authorized to fix and regulate the cost of transportation of persons and freights within their respective limits by said railway; but Congress expressly reserves the right to fix and regulate at all times the cost of such transportation by said

railway or said company whenever such transportation shall extend from one State into another, or shall extend into more than one State: Provided, however, That the rate of such transportation of passengers, local or interstate, shall not exceed the rate above expressed: And provided further, That said railway company shall carry the mail at such prices as Congress may by law provide; and until such rate is fixed by law the Postmaster-General may fix the rate of compensation.

**Payment to Tribes—Appeal—Annual Rental—Taxation.**

SEC. 5. That said railway company shall pay to the Secretary of the Interior, for the benefit of the particular nations or tribes through whose lands said main line and branches may be located, the sum of fifty dollars, in addition to compensation provided for in this Act for property taken and damages done to individual occupants by the construction of the railway, for each mile of railway that it may construct in said Territory, said payments to be made in installments of five hundred dollars as each ten miles of road is graded: Provided, That if the general council of said nations or tribes through whose lands said railway may be located or the principal executive officer of the tribe if the general council be not in session shall, within four months after the filing of maps of definite location, as set forth in section six of this Act, dissent from the allowances provided for in this section, and shall certify the same to the Secretary of the Interior, then all compensation to be paid to such dissenting nation or tribe under the provisions of this Act shall be determined as provided in section three for the determination of the compensation to be paid to the individual occupant of lands, with the right of appeal to the courts upon the same terms, conditions, and requirements as therein provided: Provided further, That the amount awarded or adjudged to be paid by said railway company for said dissenting nation or tribe shall be in lieu of the compensation that said nation or tribe would be entitled to receive under the foregoing provisions. Said

company shall also pay, so long as said Territory is owned and occupied by the Indians in their tribal relations, to the Secretary of the Interior the sum of fifteen dollars per annum for each mile of railway it shall construct in said Territory. The money paid to the Secretary of the Interior under the provisions of this Act shall be apportioned by him in accordance with the laws and treaties now in force between the United States and said nations or tribes, according to the number of miles of railway that may be constructed by said railway company through their lands: Provided, That Congress shall have the right, so long as said lands are occupied and possessed by said nation or tribe, to impose such additional taxes upon said railway as it may deem just and proper for their benefit; and any Territory or State hereafter formed through which said railway shall have been established may exercise the like power as to such part of said railway as may lie within its limits. Said railway company shall have the right to survey and locate its railway immediately after the passage of this Act.

#### **Maps of Location to Be Filed.**

SEC. 6. That said company shall cause maps, showing the route of its located line through said Territory, to be filed in the office of the Secretary of the Interior, and also to be filed in the office of the principal chief of each of the nations or tribes through whose lands said railway may be located, and after the filing of said maps no claim for a subsequent settlement and improvement upon the right of way shown by said maps shall be valid as against said company: Provided, That when a map showing any portion of said railway company's located line is filed as herein provided for, said company shall commence grading said located line within six months thereafter, or such location shall be void; and said location shall be approved by the Secretary of the Interior in sections of twenty-five miles before construction of any such section shall be begun.

**Employees May Reside on Right of Way.**

SEC. 7. That the officers, servants, and employees of said company necessary to the construction and management of said road shall be allowed to reside, while so engaged, upon such right of way, but subject to the provisions of the Indian intercourse laws, and such rules and regulations as may be established by the Secretary of the Interior in accordance with said intercourse laws.

**Jurisdiction of Indian Territory Courts.**

SEC. 8. That the United States court for the Indian Territory and such other courts as may be authorized by Congress shall have, without reference to the amount in controversy, concurrent jurisdiction over all controversies arising between the said Enid and Anadarko Railway Company and the nation and tribe through whose territory said railway shall be constructed. Said courts shall have like jurisdiction, without reference to the amount in controversy, over all controversies arising between the inhabitants of said nation or tribe and said railway company; and the civil jurisdiction of said courts is hereby extended within the limits of said Indian Territory, without distinction as to citizenship of the parties, so far as may be necessary to carry out the provisions of this Act.

**Time of Construction.**

SEC. 9. That said railway company shall build at least one-tenth of its railway in said Territory within one year after the passage of this Act, and complete its road within three years after the approval of its map of location by the Secretary of the Interior or the rights herein granted shall be forfeited as to that portion not built; that said railway company shall construct and maintain continually all road and highway crossings and necessary bridges over said railway wherever said roads and highways do now or may hereafter cross said railway's right of way, or may be by the proper authorities laid out across the same.

**Acceptance of Right of Way by Railroad.**

SEC. 10. That the said Enid and Anadarko Railway Company shall accept this right of way upon the express condition, binding upon itself, its successors, and assigns, that they will neither aid, advise, nor assist in any effort looking toward the changing or extinguishing the present tenure of the Indians in their land, and will not attempt to secure from the Indian nation any further grant of land, or its occupancy, than is hereinbefore provided: Provided, That any violation of the condition mentioned in this section shall operate as a forfeiture of all the rights and privileges of said railway company under this Act.

**Railroad Mortgages to Be Recorded.**

SEC. 11. That all mortgages executed by said railway company conveying any portion of its railway, with its franchises, that may be constructed in said Indian Territory, shall be recorded in the Department of the Interior, and the record thereof shall be evidence and notice of their execution, and shall convey all rights, franchises, and property of said company as therein expressed.

**Amendments.**

SEC. 12. That Congress may at any time amend, add to, alter, or repeal this Act; and the right of way herein and hereby granted shall not be assigned or transferred in any form whatever prior to the construction and completion of the road, except as to mortgages or other liens that may be given or secured thereon to aid in the construction thereof.

**General Right to Condemn Right of Way Given Railroads.**

SEC. 13. That the right to locate, construct, own, equip, operate, use, and maintain a railway and telegraph and telephone line or lines into, in, or through the Indian Territory, together with the right to take and condemn lands for right of way, depot grounds, terminals, and other railway pur-

poses, in or through any lands held by any Indian tribe or nation, person, individual, or municipality, in said Territory, or in or through any lands in said Territory which have been or may hereafter be allotted in severalty to any individual Indian or other person under any law or treaty, whether the same have or have not been conveyed to the allottee, with full power of alienation, is hereby granted to any railway company organized under the laws of the United States, or of any State or Territory which shall comply with this Act.

**Right of Way—Width—Station Grounds—Water Supply.**

SEC. 14. That the right of way of any railway company shall not exceed one hundred feet in width except where there are heavy cuts and fills, when one hundred feet additional may be taken on each side of said right of way; but lands additional and adjacent to said right of way may be taken and condemned by any railway company for station grounds, buildings, depots, side tracks, turnouts, or other railroad purposes not exceeding two hundred feet in width by a length of two thousand feet. That additional lands not exceeding forty acres at any one place may be taken by any railway company when necessary for yards, roundhouses, turntables, machine shops, water stations, and other railroad purposes. And when necessary for a good and sufficient water supply in the operation of any railroad, any such railway company shall have the right to take and condemn additional lands for reservoirs for water stations, and for such purpose shall have the right to impound surface water or build dams across any creek, draw, canyon, or stream, and shall have the right to connect the same by pipe line with the railroad and take the necessary grounds for such purposes; and any railway company shall have the right to change or straighten its line, reduce its grades or curves, and locate new stations and to take the lands and right of way necessary therefor under the provisions of this Act.

**Damages—Compensation—Condemnation—Procedure—Appeal—  
Maps to Be Filed.**

SEC. 15. That before any railroad shall be constructed or any lands taken or condemned for any of the purposes set forth in the preceding sections, full compensation for such right of way and all land taken and all damage done or to be done by the construction of the railroad, or the taking of any lands for railroad purposes, shall be made to the individual owner, occupant, or allottee of such lands, and to the tribe or nation through or in which the same is situated: Provided, That correct maps of the said line of railroad in sections of twenty-five miles each, and of any lands taken under this Act, shall be filed in the Department of the Interior, and shall also be filed with the United States Indian agent for Indian Territory and with the principal chief or governor of any tribe or nation through which the lines of railroad may be located or in which said lines are situated.

In case of the failure of any railway company to make amicable settlement with any individual owner, occupant, allottee, tribe or nation for any right of way or lands or improvements sought to be appropriated or condemned under this Act, all compensation and damages to be paid to the dissenting individual owner, occupant, allottee, tribe, or nation by reason of the appropriation and condemnation of said right of way, lands, or improvements shall be determined by the appraisement of three disinterested referees, to be appointed by the judge of the United States court, or other court of jurisdiction in the district where such lands are situated, on application of the corporation or other person or party in interest. Such referees, before entering upon the duties of their appointment, shall each take and subscribe, before competent authority, an oath that he will faithfully and impartially discharge the duties of his appointment, which oaths, duly certified, shall be returned with the award of the referees to the clerk of the court by which they were appointed. The referees shall also find in their report the names of the

person and persons, tribe, or nation to whom the damages are payable and the interest of each person, tribe, or nation in the award of damages. Before such referees shall proceed with the assessment of damages, for any right of way or other lands condemned under this Act, twenty days' notice of the time when the same shall be condemned shall be given to all persons interested, by publication in some newspaper in general circulation nearest said property in the district where said right of way or said lands are situated, or by ten days' personal notice to each person owning or having any interest in said lands or right of way: Provided, That such notice to any tribe or nation may be served on the principal chief or governor of the tribe. If the referees can not agree, then any two of them are authorized to and shall make the award. Any party to the proceedings who is dissatisfied with the award of the referees shall have the right, within ten days after the making of the award, to appeal, by original petition, to the United States court, or other court of competent jurisdiction, sitting at the place nearest and most convenient to the property sought to be taken, where the question of the damages occasioned by the taking of the lands in controversy shall be tried de novo, and the judgment rendered by the court shall be final and conclusive, subject, however, to appeal as in other cases.

When the award of damages is filed with the clerk, of the court by the referees, the railway company shall deposit the amount of such award with the clerk of the court, to abide the judgment thereof, and shall then have the right to enter upon and take possession of the property sought to be condemned: Provided, That when the said railway company is not satisfied with the award, it shall have the right, before commencing construction, to abandon any portion of said right of way and adopt a new location, subject, however, as to such new location, to all the provisions of this Act. Each of the referees shall receive for his compensation the sum of four dollars per day while actually engaged in the appraisalment of

the property and the hearing of any matter submitted to them under this Act. Witnesses shall receive the fees and mileage allowed by law to witness in courts of record within the district where such lands are located. Costs, including compensation of the referees, shall be made part of the award of judgment and be paid by the railway company; Provided, That if any party or person other than the railway company shall appeal from any award, and the judgment of the court does not award such appealing party or person more than the referees awarded, all costs occasioned by such appeal shall be paid by such appealing party or person.

**Compensation to Tribes—Cost of Transportation—Mail.**

SEC. 16. That where a railroad is constructed under the provisions of this Act there shall be paid by the railway company to the Secretary of the Interior, for the benefit of the particular tribe or nation through whose lands any such railroad may be constructed, an annual charge of fifteen dollars per mile for each mile of road constructed, the same to be paid so long as said lands shall be owned and occupied by such nation or tribe, which payment shall be in addition to the compensation otherwise provided herein; and the grants herein are made upon the condition that Congress hereby reserves the right to regulate the charges for freight and passengers on said railways and messages on all telegraph and telephone lines until a State government or governments shall exist in said Territory within the limits of which any railway shall be located; and then such State government or governments shall be authorized to fix and regulate the cost of transportation of persons and freights within their respective limits by such railways; but Congress expressly reserves the right to fix and regulate at all times the cost of such transportation by said railways whenever such transportation shall extend from one State into another, or shall extend into more than one State; and that the railway companies shall carry the mail at such prices as Congress may

by law provide; and until such rate is fixed by law the Postmaster-General may fix the rate of compensation.

**Railroad Crossings—Condemnation—Procedure.**

SEC. 17. That any railway company authorized to construct, own, or operate, a railroad in said Territory desiring to cross or unite its tracks with any other railroad upon the grounds of such other railway company, shall, after fifteen days' notice in writing to such other railroad company, make application in writing to the judge of the United States court for the district in which it is proposed to make such crossing or connection for the appointment of three disinterested referees to determine the necessity, place, manner, and time of such crossing or connection. The provisions of section three of this Act with respect to the condemnation of right of way through tribal or individual lands shall, except as in this section otherwise provided, apply to proceedings to acquire the right to cross or connect with another railroad. Upon the hearing of any such application to cross or connect with any other railroad, either party or the referees may call and examine witnesses in regard to the matter, and said referees shall have the same power to administer oaths to witnesses that is now possessed by the United States commissioners in said Territory, and said referees shall, after such hearing and a personal examination of the locality where a crossing or connection is desired, determine whether there is a necessity for such crossing, or not, and if so, the place thereof, whether it shall be over or under the existing railroad, or at grade, and in other respects the manner of such crossing and the terms upon which the same shall be made and maintained: Provided, That no crossing shall be made through the yards or over the switches or side tracks of any existing railroad if a crossing can be effected at any other place that is practicable. If either party shall be dissatisfied with the terms of the order made by said referees it may appeal to the United States court of the Indian Territory for the district wherein

such crossing or connection is sought to be made in the same manner as appeals are allowed from a judgment of a United States commissioner to said court, and said appeal and all subsequent proceedings shall only affect the amount of compensation, if any, and other terms of crossing fixed by said referees, but shall not delay the making of said crossing or connection: Provided, That the corporation desiring such crossing or connection shall deposit with the clerk of the court the amount of compensation, if any is fixed by said referees, and shall execute and file with said clerk a bond of sufficient security to be approved by the court or a judge thereof in vacation, to pay all damages and comply with all terms that may be adjudged by the court. Any railway company which shall violate or evade any of the provisions of this section shall forfeit for every such offense, to the person, company, or corporation injured thereby, three times the actual damages sustained by the party aggrieved.

#### **Railroad Crossings.**

SEC. 18. That when in any case two or more railroads crossing each other at a common grade shall, by a system of interlocking or automatic signals or by any works or fixtures to be erected by them, render it safe for engines and trains to pass over such crossing without stopping, and, such interlocking or automatic signals or works or fixtures shall be approved by the Interstate Commerce Commissioners, then, in that case, it is hereby made lawful for the engines and trains of such railroad or railroads to pass over such crossing without stopping, any law or the provisions of any law to the contrary notwithstanding; and when two or more railroads cross each other at a common grade, either of such roads may apply to the Interstate Commerce Commissioners for permission to introduce upon both of said railroads some system of interlocking or automatic signals or works or fixtures rendering it safe for engines and trains to pass over such crossings without stopping, and it shall be the duty of said In-

terstate Commerce Commissioners, if the system of works and fixtures which it is proposed to erect by said company are, in the opinion of the Commission, sufficient and proper, to grant such permission.

**Railroad Crossings—Signals.**

SEC. 19. That any railroad company which has obtained permission to introduce a system of interlocking or automatic signals at its crossing at a common grade with any other railroad, as provided in the last section, may, after thirty days' notice, in writing, to such other railroad company, introduce and erect such interlocking or automatic signals or fixtures; and if such railroad company, after such notification, refuses to join with the railroad company giving such notice in the construction of such works or fixtures, it shall be lawful for said company to enter upon the right of way and tracks of such second company, in such manner as to not unnecessarily impede the operation of such road, and erect such works and fixtures, and may recover in any action at law from such second company one-half of the total cost of erecting and maintaining such interlocking or automatic signals or works or fixtures on both of said roads.

**Railroad Mortgages to Be Recorded.**

SEC. 20. That all mortgages executed by any railway company conveying any portion of its railway, with its franchises, that may be constructed in said Indian Territory, shall be recorded in the Department of the Interior, and the record thereof shall be evidence and notice of their execution, and shall convey all rights, franchises, and property of said company as therein expressed.

**Right to Amend.**

SEC. 21. That Congress hereby reserves the right at any time to alter, amend, or repeal this Act, or any portion thereof.

**Railroads Subject to This Act—Extension of Time of Completion.**

SEC. 22. That any railway company which has heretofore acquired, or may hereafter acquire, under any other Act of Congress, a railroad right of way in Indian Territory may, in the manner herein prescribed, obtain any or all of the benefits and advantages of this Act, and in such event shall become subject to all the requirements and responsibilities imposed by this Act upon railroad companies acquiring a right of way hereunder. And where the time for the completion of a railroad in Indian Territory under any Act granting a right of way therefor has expired, or shall hereafter expire, in advance of the construction of such railroad, or of any part thereof, the Secretary of the Interior may, upon good cause shown, extend the time for the completion of such railroad, or of any part thereof, for a time not exceeding two years from the date of such extension.

**Repeals—Act Applicable to Osage Nation.**

SEC. 23. That an Act entitled "An Act to provide for the acquiring of rights of way by railroad companies through Indian reservations, Indian lands, and Indian allotments, and for other purposes," approved March second, eighteen hundred and ninety-nine, so far as it applies to the Indian Territory and Oklahoma Territory, and all other Acts or parts of Acts inconsistent with this Act are hereby repealed: Provided, That such repeal shall not affect any railroad company whose railroad is now actually being constructed, or any rights which have already accrued: but such railroads may be completed and such rights enforced in the manner provided by the laws under which such construction was commenced or under which such rights accrued: And provided further, That the provisions of this Act shall apply also to the Osages' Reservation and other Indian reservations and allotted Indian lands in the Territory of Oklahoma, and all judicial proceedings herein authorized, may be commenced and prosecuted in the courts of said Oklahoma Territory which may now or

hereafter exercise jurisdiction within said reservations or allotted lands.

C. O. & G. Ry. Co. v. Bond, 6 I. T. 515, 98 S. W. 335.

St. L. & S. F. R. Co. v. Pfennighausen, 7 I. T. 685, 104 S. W. 880.

Denver W. & M. Ry. Co. v. Adkinson, 28 Okla. 1, 119 Pac. 247.

Bruner v. Ft. Smith & W. R. Co., 127 Pac. 700, 33 Okla. 711.

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AN ACT TO CHANGE THE BOUNDARIES BETWEEN  
THE SOUTHERN AND CENTRAL JUDICIAL DISTRICTS OF  
THE INDIAN TERRITORY.

Act of Congress, Approved March 24, 1902.

(32 Stat. L. 90.)

**Additions to Central Judicial District.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That all that portion of the Chickasaw Nation east of the Washita River, from the junction of Island Bayou and the Red River, up the Red River to the mouth of the Washita River, and up said river to the mouth of Butcherpen Creek, and north up said Butcherpen Creek to the township line between townships four and five south, in range seven east, thence along said township line to the boundary line between the Choctaw and Chickasaw nations, in range eight east, shall be added to the central judicial district of the Indian Territory.

**Jurisdiction of Courts—Civil and Criminal.**

SECTION 2. That the United States court for the Central judicial district of the Indian Territory shall have jurisdiction over all cases, civil and criminal, arising within the said boundaries after the passage of this Act.

**United States Commissioners—Appointment of.**

SEC. 3. That the judge of the United States court in the Indian Territory presiding in the central judicial district thereof is hereby authorized and empowered to appoint an additional United States commissioner within said district, who shall be permanently located at Durant, in the Choctaw Nation, and to prescribe by metes and bounds the portion of the district for which such commissioner is appointed.

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AN ACT FOR THE PROTECTION OF CITIES AND TOWNS  
IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES.

Act of Congress, Approved May 19, 1902.

(32 Stat. L. 200.)

**Bond Issues Authorized—Limit of Issue—Procedure.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That any incorporated city or town in the Indian Territory having a population of two thousand or more is hereby authorized to issue bonds and borrow money thereon, to be used for the construction of sewers and waterworks and the building of school-houses; such bonds not to exceed an amount, the interest on which at five per centum per annum would be liquidated by a tax of five mills upon the dollar of the valuation of the taxable property in such city or town, to be ascertained by the last assessment for purposes of taxation; that before such bonds shall be issued the same shall be authorized by a two-thirds majority of the qualified voters of such city or town voting at an election held for that purpose, notice of which shall be published for four consecutive weeks prior thereto in a newspaper of general circulation published in such munic-

ipality: Provided, That such bonds shall not be issued until it shall be made to appear to the satisfaction of the judge of the United States court for the judicial district in which such municipality is located, by petition of the mayor and council thereof, that all the requirements of this section have been complied with, who shall thereupon cause to be entered upon the minutes of his court a judgment or decree reciting the facts as he finds them to be: Provided, however, That before any election shall be held for the purposes herein named a census shall be taken and the population of said municipality ascertained by some suitable person, or persons, appointed for that purpose by the said judge of the district court, who shall make a sworn return to said judge showing the number of inhabitants thereof, and that the judgment or decree shall set forth the population and taxable wealth of the municipality, and said order or decree shall be printed on said bond and made a part thereof and shall be final and conclusive against said municipality in any litigation on said bonds.

**Bonds—Interest—Sale.**

SECTION 2. That such bonds shall contain all necessary and usual provisions expressing the contract, shall be signed by the mayor and countersigned by the treasurer of such municipality, who shall keep a proper record of such bonds. Said bonds shall not bear a rate of interest exceeding five per centum, payable semiannually, and none of said bonds shall be sold at less than their par value.

**Bonds—Tax to Pay.**

SEC. 3. That any municipality incurring any indebtedness for the purposes provided for in this Act shall, by ordinance which shall be irrevocable, provide for the collection of an annual tax sufficient to pay the interest on such bonds, as the same falls due, and also to pay and discharge the principal thereof within twenty years from the date of contracting the same: Provided, That if any municipality shall have the authority under any special Act to issue its bonds, the amount

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of the bonds, issued under the special Act shall be first deducted, and there shall only be issued under this Act such additional bonds as shall not exceed the limit provided in this Act.

Incorporated Town of Tahlequah v. Guinn, 5 I. T. 497, 82 S. W. 886.

Eberle v. King, 20 Okla. 55, 93 Okla. 748.

Mitchell v. Tulsa Water, Light, Heat & Power Co., 21 Okla. 243, 95 Pac. 961.

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ORIGINAL CURTIS ACT AND ATOKA AGREEMENT.

(30 Stat. L. 495.)

Act of Congress, Approved June 28, 1898.

AN ACT FOR THE PROTECTION OF THE PEOPLE  
OF THE INDIAN TERRITORY, AND FOR OTHER PURPOSES.

**"Officer " Defined—Criminal Law.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That in all criminal prosecutions in the Indian Territory against officials for embezzlement, bribery and embracery the word "officer," when the same appears in the criminal laws heretofore extended over and put in force in said Territory, shall include all officers of the several tribes or nations of Indians in said Territory.

**Tribe to Be Party In Suits Affecting Tribal Property.**

SECTION 2. That when in the progress of any civil suit, either in law or equity, pending in the United States court in any district in said Territory, it shall appear to the court that the property of any tribe is in any way affected by the issues being heard, said court is hereby authorized and required to make said tribe a party to said suit by service upon

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the chief or governor of the tribe, and the suit shall thereafter be conducted and determined as if said tribe had been an original party to said action.

Hargrove v. Cherokee Nation, 3 I. T. 484, 58 S. W. 667, 129 Fed. 186.

Tuttle v. Moore, 3 I. T. 712, 64 S. W. 585.

Thompson v. Morgan, 4 I. T. 412, 69 S. W. 920.

Lewis v. Sittle, 30 Okla. 530.

Adams v. Murphy, 104 S. W. 658, 165 Fed. 304.

Wallace v. Adams, 143 Fed. 716.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

**United States Courts—Jurisdiction Over Claims to Members—Improvements—Compensation for.**

SEC. 3. That said courts are hereby given jurisdiction in their respective districts to try cases against those who may claim to hold as members of a tribe and whose membership is denied by the tribe, but who continue to hold said lands and tenements notwithstanding the objection of the tribe; and if it be found upon trial that the same are held unlawfully against the tribe by those claiming to be members thereof, and the membership and right are disallowed by the Commission to the Five Civilized Tribes, or the United States court, and the judgment has become final, then said court shall cause the parties charged with unlawfully holding said possessions to be removed from the same and cause the lands and tenements to be restored to the person or persons or nation or tribe of Indians entitled to the possession of the same: Provided always, That any person being a noncitizen in possession of lands, holding the possession thereof under an agreement, lease, or improvement contract with either of said nations or tribes, or any citizen thereof, executed prior to January first, eighteen hundred and nine-eight, may, as to lands not exceeding in amount one hundred and sixty acres, in defense of any action for the possession of said lands show that he is and has been in peaceable possession of such lands, and that he has while in such possession made lasting and valuable

improvements thereon, and that he has not enjoyed the possession thereof a sufficient length of time to compensate him for such improvements. Thereupon the court or jury trying said cause shall determine the fair and reasonable value of such improvements and the fair and reasonable rental value of such lands for the time the same shall have been occupied by such person, and if the improvements exceed in value the amount of rents with which such person should be charged, the court in its judgment, shall specify such time as will, in the opinion of the court, compensate such person for the balance due, and award him possession for such time unless the amount be paid by claimant within such reasonable time as the court shall specify. If the finding be that the amount of rents exceed the value of the improvements, judgment shall be rendered against the defendant for such sum, for which execution may issue.

Daniels v. Miller, 4 I. T. 426, 69 S. W. 925.

Brought v. Cherokee Nation, 4 I. T. 462, 69 S. W. 937.

Swinney v. Kelley, 5 I. T. 12, 76 S. W. 303.

Sharrock v. Kreiger, 6 I. T. 466, 98 S. W. 161.

Hargrove v. Cherokee Nation, 3 I. T. 479, 58 S. W. 667, 69 S. W. 868, 129 Fed. 186.

Castell v. McNeely, 4 I. T. 1, 64 S. W. 594.

Barton v. Hulsey, 4 I. T. 260, 69 S. W. 868.

Thompson v. Morgan, 4 I. T. 412, 69 S. W. 920.

Lewis v. Sittle, 30 Okla. 530.

Wallace v. Adams, 143 Fed. 716.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

#### **Improvements—Appraisal and Sale.**

SEC. 4. That all persons who have heretofore made improvements on lands belonging to any one of the said tribes of Indians, claiming rights of citizenship, whose claims have been decided adversely under the act of Congress approved June tenth, eighteen hundred and ninety-six, shall have possession thereof until and including December thirty-first, eighteen hundred and ninety-eight; and may, prior to that time, sell or dispose of the same to any member of the tribe owning the

land who desires to take the same in his allotment: Provided, That this section shall not apply to improvements which have been appraised and paid for or payment tendered by the Cherokee Nation under the agreement with the United States approved by Congress March third, eighteen hundred and ninety-three.

Brought v. Cherokee Nation, 4 I. T. 462, 69 S. W. 937.

Castell v. McNeely, 4 I. T. 11, 64 S. W. 594.

Hargrove v. Cherokee Nation, 129 Fed. 186.

#### **Suits for Possession—Notice to Quit.**

SEC. 5. That before any action by any tribe or person shall be commenced under section three of this act it shall be the duty of the party bringing the same to notify the adverse party to leave the premises for the possession of which the action is about to be brought, which notice shall be served at least thirty days before commencing the action by leaving a written copy with the defendant, or, if he cannot be found, by leaving the same at his last known place of residence or business with any person occupying the premises over the age of twelve years, or, if his residence or business address can not be ascertained, by leaving the same with any person over the age of twelve years upon the premises sought to be recovered and described in said notice; and if there be no person with whom said notice can be left, then by posting same on the premises.

Daniels v. Miller, 4 I. T. 426, 69 S. W. 925.

Price v. Cherokee Nation, 5 I. T. 518, 82 S. W. 893.

Thompson v. Morgan, 4 I. T. 412, 69 S. W. 920.

Lewis v. Sittle, 30 Okla. 530.

#### **Suit for Possession—Summons.**

SEC. 6. That the summons shall not issue in such action until the chief or governor of the tribe, or person or persons bringing suit in his own behalf, shall have filed a sworn complaint, on behalf of the tribe or himself, with the court, which shall, as near as practicable, describe the premises so detained, and shall set forth a detention without the consent of the per-

son bringing said suit or the tribe, by one whose membership is denied by it: Provided, That if the chief or governor refuse or fail to bring suit in behalf of the tribe, then any member of the tribe may make complaint and bring said suit.

Daniels v. Miller, 4 I. T. 426, 69 S. W. 925.

Brought v. Cherokee Nation, 4 I. T. 402, 69 S. W. 937.

Hargrove v. Cherokee Nation, 3 I. T. 484, 58 S. W. 667, 4 I. T. 120, 69 S. W. 823, 129 Fed. 186.

Thompson v. Morgan, 4 I. T. 412, 69 S. W. 920.

#### **Bond on Continuance.**

SEC. 7. That the court in granting a continuance of any case, particularly under section three, may, in its discretion, require the party applying therefor to give an undertaking to the adverse party, with good and sufficient securities, to be approved by the judge of the court, conditioned for the payment of all damages and costs and defraying the rent which may accrue if judgment is rendered against him.

Lewis v. Sittle, 30 Okla. 530.

#### **Judgment of Restitution—Execution.**

SEC. 8. That when a judgment for restitution shall be entered by the court the clerk shall, at the request of the plaintiff or his attorney, issue a writ of execution thereon, which shall command the proper officer of the court to cause the defendant or defendants to be forthwith removed and ejected from the premises and the plaintiff given complete and undisturbed possession of the same. The writ shall also command the said officer to levy upon the property of the defendant or defendants subject to execution, and also collect therefrom the costs of the action and all accruing costs in the service of the writ. Said writ shall be executed within thirty days.

Lewis v. Sittle, 30 Okla. 530.

#### **Police Jurisdiction Extended.**

SEC. 9. That the jurisdiction of the court and municipal authority of the city of Fort Smith for police purposes in the

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State of Arkansas is hereby extended over all that strip of land in the Indian Territory lying and being situated between the corporate limits of the said city of Fort Smith and the Arkansas and Poteau rivers, and extending up the said Poteau River to the mouth of Mill Creek; and all the laws and ordinances for the preservation of the peace and health of said city, as far as the same are applicable, are hereby put in force therein: Provided, That no charge or tax shall ever be made or levied by said city against said land or the tribe or nation to whom it belongs.

### **Limitation on Actions for Possession.**

SEC. 10. That all actions for restitution of possession of real property under this act must be commenced by the service of a summons within two years after the passage of this act, where the wrongful detention or possession began prior to the date of its passage; and all actions which shall be commenced hereafter, based upon wrongful detention or possession committed since the passage of this act must be commenced within two years after the cause of action accrued. And nothing in this act shall take away the right to maintain an action for unlawful and forcible entry and detainer given by the act of Congress passed May second, eighteen hundred and ninety (Twenty-sixth United States Statutes, page ninety-five).

Price v. Cherokee Nation, 5 I. T. 518, 82 S. W. 893.

Thompson v. Morgan, 4 I. T. 412, 69 S. W. 920.

Lewis v. Sittle, 30 Okla. 530.

### **Allotment of Surface by Dawes Commission.**

SEC. 11. That when the roll of citizenship of any one of said nations or tribes is fully completed as provided by law, and the survey of the lands of said nation or tribe is also completed, the Commission heretofore appointed under acts of Congress, and known as the "Dawes Commission," shall proceed to allot the exclusive use and occupancy of the surface of all the lands of said nation or tribe susceptible of allotment

among the citizens thereof, as shown by said roll, giving to each, so far as possible, his fair and equal share thereof, considering the nature and fertility of the soil, location, and value of same; but all oil, coal, asphalt, and mineral deposits in the lands of any tribe are reserved to such tribe, and no allotment of such lands shall carry the title to such oil, coal, asphalt, or mineral deposits; and all town sites shall also be reserved to the several tribes, and shall be set apart by the Commission heretofore mentioned as incapable of allotment. There shall also be reserved from allotment a sufficient amount of lands now occupied by churches, schools, parsonages, charitable institutions, and other public buildings for their present actual and necessary use, and no more, not to exceed five acres for each school and one acre for each church and each parsonage, and for such new schools as may be needed; also sufficient land for burial grounds where necessary. When such allotment of the lands of any tribe has been by them completed, said Commission shall make full report thereof to the Secretary of the Interior for his approval: Provided, That nothing herein contained shall in any way affect any vested legal rights which may have been heretofore granted by act of Congress, nor be so construed as to confer any additional rights upon any parties claiming under any such act of Congress: Provided further, That whenever it shall appear that any member of a tribe is in possession of lands, his allotment may be made out of the lands in his possession, including his home if the holder so desires: Provided further, That if the person to whom an allotment shall have been made shall be declared, upon appeal as herein provided for, by any of the courts of the United States in or for the aforesaid Territory, to have been illegally accorded rights of citizenship, and for that or any other reason declared to be not entitled to any allotment, he shall be ousted and ejected from said lands; that all persons known as intruders who have been paid for their improvements under existing laws and have not surrendered possession thereof who may be found under the provisions of this

act to be entitled to citizenship shall, within ninety days thereafter, refund the amount so paid them, with six per centum interest, to the tribe entitled thereto; and upon their failure so to do said amount shall become a lien upon all improvements owned by such person in such Territory, and may be enforced by such tribes; and unless such person makes such restitution no allotments shall be made to him: Provided further, That the lands allotted shall be nontransferable until after full title is acquired and shall be liable for no obligations contracted prior thereto by the allottee, and shall be nontaxable while so held: Provided further, That all towns and cities heretofore incorporated or incorporated under the provisions of this act are hereby authorized to secure, by condemnation or otherwise, all the lands actually necessary for public improvements, regardless of tribal lines; and when the same can not be secured otherwise than by condemnation, then the same may be acquired as provided in sections nine hundred and seven and nine hundred and twelve, inclusive, of Mansfield's Digest of the Statutes of Arkansas.

U. S. v. Lewis, 5 I. T. 8, 76 S. W. 299.

Williams v. First Nat'l Bank, 20 Okla. 277, 95 Pac. 457.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

McWilliams Investment Co. v. Livingston, 22 Okla. 884, 98 Pac. 914.

Bruner v. Sanders, 26 Okla. 673, 110 Pac. 730.

Sanders v. Sanders, 28 Okla. 59.

Barnett v. Way, 29 Okla. 780, 119 Pac. 418.

Divine v. Harmon, 30 Okla. 920, 121 Pac. 219.

Morley v. Fewel, 32 Okla. 452, 122 Pac. 700.

Shellenbarger v. Fewel, 124 Pac. 617.

Taylor v. Parker, 126 Pac. 573, 33 Okla. 199.

Chapman v. Siler, 30 Okla. 714, 120 Pac. 608.

Harris v. Hardridge, 104 S. W. 826, 166 Fed. 109.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

Cherokee Nation v. Hitchcock, 187 U. S. 303, 47 L. Ed. 183.

Garfield v. Goldsby, 211 U. S. 249, 52 L. Ed. 168.

Fleming v. McCurtain, 215 U. S. 56, 54 L. Ed. 88.

Heckman v. United States, 224 U. S. 13, 56 L. Ed. 820.

**Record and Confirmation of Allotments.**

SEC. 12. That when report of allotments of lands of any tribe shall be made to the Secretary of the Interior, as hereinbefore provided, he shall make a record thereof, and when he shall confirm such allotments the allottees shall remain in peaceable and undisturbed possession thereof, subject to the provisions of this act.

Fleming v. McCurtain, 215 U. S. 56, 54 L. Ed. 88.

**Coal, Asphalt and Oil Lands and Leases.**

SEC. 13. That the Secretary of the Interior is authorized and directed from time to time to provide regulations in regard to the leasing of oil, coal, and other minerals in said Territory, and all such leases made by the Secretary of the Interior; and any lease of such minerals otherwise made shall be absolutely void. No lease shall be made or renewed for a longer period than ten years, nor cover the mineral in more than six hundred and forty acres of land, which shall conform as nearly as possible to the surveys. Lessees shall pay on each oil, coal, asphalt and other mineral claim at the rate of one hundred dollars per annum, in advance, for the first and second years; two hundred dollars per annum, in advance, for the third and fourth year; and five hundred dollars, in advance, for each succeeding year thereafter, as advanced royalty on the mine or claim on which they are made. All such payments shall be a credit on royalty when each said mine is developed and operated and its production is in excess of such guaranteed annual advanced payments; and all lessees must pay said annual advanced payments on each claim, whether developed or undeveloped; and should any lessee neglect or refuse to pay such advanced annual royalty for the period of sixty days after the same becomes due and payable on any lease, the lease on which default is made shall become null and void, and the royalties paid in advance shall then become and be the money and property of the tribe. Where any oil, coal, asphalt, or other min-

eral is hereafter opened on land allotted, sold, or reserved, the value of the use of the necessary surface for prospecting or mining, and the damage done to the other land and improvements, shall be ascertained under the direction of the Secretary of the Interior and paid to the allottee or owner of the land, by the lessee or party operating the same, before operations begin: Provided, That nothing herein contained shall impair the rights of any holder or owner of a leasehold interest in any oil, coal rights, asphalt, or mineral which have been assented to by act of Congress, but all such interest shall continue unimpaired hereby, and shall be assured to such holders or owners by leases from the Secretary of the Interior for the term not exceeding fifteen years, but subject to payment of advance royalties as herein provided, when such leases are not operated, to the rate of royalty on coal mined, and the rules and regulations to be prescribed by the Secretary of the Interior, and preference shall be given to such parties in renewals of such leases: And provided further, That when, under the customs and laws heretofore existing and prevailing in the Indian Territory, leases have been made of different groups or parcels of oil, coal, asphalt, or other mineral deposits, and possession has been taken thereunder and improvements made for the development of such oil, coal, asphalt, or other mineral deposits, by lessees or their assigns, which have resulted in the production of oil, coal, asphalt, or other mineral in commercial quantities by such lessees or their assigns, then such parties in possession shall be given preference in the making of new leases, in compliance with the directions of the Secretary of the Interior; and in making new leases due consideration shall be made for the improvements of such lessees, and in all cases of the leasing or renewal of leases of oil, coal, asphalt, and other mineral deposits preference shall be given to parties in possession who have made improvements. The rate of royalty to be paid by all lessees shall be fixed by the Secretary of the Interior.

Owens v. Eaton, 5 I. T. 275, 82 S. W. 746.

McBride v. Farrington, 131 Fed. 797.

United States v. McMurray, 181 Fed. 723.

Cherokee Nation v. Hitchcock, 187 U. S. 303, 47 L. Ed. 183.

#### **Incorporation of Towns—Taxation.**

SEC. 14. That the inhabitants of any city or town in said Territory having two hundred or more residents therein may proceed, by petition to the United States court in the district in which such city or town is located, to have the same incorporated as provided in chapter twenty-nine of Mansfield's Digest of the Statutes of Arkansas, if not already incorporated thereunder; and the clerk of said court shall record all papers and perform all the acts required of the recorder of the county, or the clerk of the county court, or the secretary of State, necessary for the incorporation of any city or town, as provided in Mansfield's Digest, and such city or town government, when so authorized and organized, shall possess all the powers and exercise all the rights of similar municipalities in said State of Arkansas. All male inhabitants of such cities and towns over the age of twenty-one years, who are citizens of the United States or of either of said tribes, who have resided therein more than six months next before any election held under this act, shall be qualified voters at such election. That mayors of such cities and towns, in addition to their other powers, shall have the same jurisdiction in all civil and criminal cases arising within the corporate limits of such cities and towns as, and coextensive with, United States commissioners in the Indian Territory, and may charge, collect, and retain the same fees as such commissioners now collect and account for to the United States; and the marshal or other executive officer of such city or town may execute all processes issued in the exercise of the jurisdiction hereby conferred, and charge and collect the same fees for similar services, as are allowed to constables under the laws now in force in said Territory.

All elections shall be conducted under the provisions of chapter fifty-six of said digest, entitled "Elections," so far as

the same may be applicable; and all inhabitants of such cities and towns, without regard to race, shall be subject to all laws and ordinances of such city or town governments, and shall have equal rights, privileges, and protection therein. Such city or town governments shall in no case have any authority to impose upon or levy any tax against any lands in said cities or towns until after title is secured from the tribe; but all other property, including all improvements on town lots, which for the purposes of this act shall be deemed and considered personal property, together with all occupations and privileges, shall be subject to taxation. And the councils of such cities and towns, for the support of the same and for school and other public purposes, may provide by ordinance for the assessment, levy, and collection annually of a tax upon such property, not to exceed in the aggregate two per centum of the assessed value thereof, in manner provided in chapter one hundred and twenty-nine of said digest, entitled "Revenue," and for such purposes may also impose a tax upon occupations and privileges.

Such councils may also establish and maintain free schools in such cities and towns, under the provisions of sections sixty-two hundred and fifty-eight to sixty-two hundred and seventy-six, inclusive, of said digest, and may exercise all the powers conferred upon special school districts in cities and towns in the State of Arkansas by the laws of said State when the same are not in conflict with the provisions of this act.

For the purposes of this section all the laws of said State of Arkansas herein referred to, so far as applicable, are hereby put in force in said Territory; and the United States court therein shall have jurisdiction to enforce the same, and to punish any violation thereof, and the city or town councils shall pass such ordinances as may be necessary for the purpose of making the laws extended over them applicable to them and for carrying the same into effect: Provided, That nothing in this act, or in the laws of the State of Arkansas, shall authorize or permit the sale, or exposure for sale, of any intoxicating

liquor in said Territory, or the introduction thereof into said Territory; and it shall be the duty of the district attorneys in said Territory and the officers of such municipalities to prosecute all violators of the laws of the United States relating to the introduction of intoxicating liquors into said Territory, or to their sale, or exposure for sale, therein: Provided further, That owners and holders of leases or improvements in any city or town shall be privileged to transfer the same.

*Zevely v. Weimer*, 5 I. T. 687, 82 S. W. 941.

*In re Poff's Guardianship*, 7 I. T. 59, 103 S. W. 765.

*Baker v. Marcum & Toomer*, 22 Okla. 21, 97 Pac. 572.

*Town of Hartshorne v. Town of Haileyville*, 24 Okla. 775, 104 Pac. 49.

*Lewis v. Sittle*, 30 Okla. 530.

*Cochran v. Hocker*, 124 Pac. 953.

*Dennet v. Cromer*, 114 Fed. 623.

*U. S. v. Rea-Reed Mill & Elevator Co.*, 171 Fed. 501.

#### **Townsite Commissions—Sale of Lots—Improvements.**

SEC. 15. That there shall be a commission in each town for each one of the Chickasaw, Choctaw, Creek, and Cherokee tribes, to consist of one member to be appointed by the executive of the tribe, who shall not be interested in town property, other than his home; one person to be appointed by the Secretary of the Interior, and one member to be selected by the town. And if the executive of the tribe or the town fail to select members as aforesaid, they may be selected and appointed by the Secretary of the Interior.

Said commissions shall cause to be surveyed and laid out town sites where towns with a present population of two hundred or more are located, conforming to the existing survey, so far as may be, with proper and necessary streets, alleys, and public grounds, including parks and cemeteries, giving to each town such territory as may be required for its present needs and reasonable prospective growth; and shall prepare correct plats thereof, and file one with the Secretary of the Interior, one with the clerk of the United States court, one with the

authorities of the tribe, and one with the town authorities. And all town lots shall be appraised by said commission at their true value, excluding improvements; and separate appraisements shall be made of all improvements thereon; and no such appraisement shall be effective until approved by the Secretary of the Interior, and in case of disagreement by the members of such commission as to the value of any lot, the Secretary may fix the value thereof.

The owner of the improvements upon any town lot, other than fencing, tillage, or temporary buildings, may deposit in the United States treasury, Saint Louis, Missouri, one-half of such appraised value; ten per centum within two months and fifteen per centum more within six months after notice of appraisement, and the remainder in three equal annual installments thereafter, depositing with the Secretary of the Interior one receipt for each payment, and one with the authorities of the tribe, and such deposit shall be deemed a tender to the tribe of the purchase money for such lot.

If the owner of such improvements on any lot fails to make deposit of the purchase money as aforesaid, then such lot may be sold in the manner herein provided for the sale of unimproved lots; and when the purchaser thereof has complied with the requirements herein for the purchase of improved lots he may, by petition, apply to the United States court within whose jurisdiction the town is located for condemnation and appraisement of such improvements, and petitioner shall, after judgment, deposit the value so fixed with the clerk of the court; and thereupon the defendant shall be required to accept same in full payment for his improvements or remove same from the lot within such time as may be fixed by the court.

All town lots not improved as aforesaid shall belong to the tribe, and shall be in like manner appraised, and, after approval by the Secretary of the Interior, and due notice, sold to the highest bidder at public auction by said commission, but not for less than their appraised value, unless ordered by the Secretary of the Interior; and purchasers may in like manner make

deposits of the purchase money with like effect, as in case of improved lots.

The inhabitants of any town may, within one year after the completion of the survey thereof, make such deposit of ten dollars per acre for parks, cemeteries, and other public grounds laid out by said commission with like effect as for improved lots; and such parks and public grounds shall not be used for any purpose until such deposits are made.

The person authorized by the tribe or tribes may execute or deliver to any such purchaser, without expense to him, a deed conveying to him the title to such lands or town lots; and thereafter the purchase money shall become the property of the tribe; and all such moneys shall, when titles to all the lots in the towns belonging to any tribe have been thus perfected, be paid per capita to the members of the tribe: Provided, however, That in those town sites designated and laid out under the provisions of this act where coal leases are now being operated and coal is being mined there shall be reserved from appraisement and sale all lots occupied by houses of miners actually engaged in mining, and only while they are so engaged, and in addition thereto a sufficient amount of land, to be determined by the appraisers, to furnish homes for the men actually engaged in working for the lessees operating said mines and a sufficient amount for all buildings and machinery for mining purposes: And provided further, That when the lessees shall cease to operate said mines, then, and in that event, the lots of land so reserved shall be disposed of as provided for in this act.

*Zevely v. Weimer*, 5 I. T. 687, 82 S. W. 941.

*Tuttle v. Moore*, 3 I. T. 712, 64 S. W. 585.

*Hockett v. Alston*, 3 I. T. 441, 58 S. W. 675.

*Town of Hartshorne v. Town of Haileyville*, 24 Okla. 775; 104 Pac. 49.

*Lewis v. Sittle*, 30 Okla. 530.

*Cochran v. Hocker*, 124 Pac. 953.

*Fraer, v. Washington*, 125 Fed. 280.

W. O. Whitney Lumber & Grain Co. v. Crabtree, 104 S. W. 862,  
166 Fed. 738.

United States v. Rea-Reed Mill & Elevator Co., 171 Fed. 501.

Buster v. Wright, 135 Fed. 947.

**Mineral Lands—Rents and Royalties—Sale of Timber.**

SEC. 16. That it shall be unlawful for any person, after the passage of this act, except as hereinafter provided, to claim, demand, or receive, for his own use or for the use of anyone else, any royalty on oil, coal, asphalt, or other mineral, or on any timber or lumber, or any other kind of property whatsoever, or any rents on any lands or property belonging to any one of said tribes or nations in said Territory, or for anyone to pay to any individual any such royalty or rents or any consideration therefor whatsoever; and all royalties and rents hereafter payable to the tribe shall be paid, under such rules and regulations as may be prescribed by the Secretary of the Interior, into the Treasury of the United States to the credit of the tribe to which they belong: Provided, That where any citizen shall be in possession of only such amount of agricultural or grazing lands as would be his just and reasonable share of the lands of his nation or tribe and that to which his wife and minor children are entitled, he may continue to use the same or receive the rents thereon until allotment has been made to him: Provided further, That nothing herein contained shall impair the rights of any member of a tribe to dispose of any timber contained on his, her, or their allotment.

U. S. v. Lewis, 5 I. T. —, 76 S. W. 299.

Hubbard v. Chism, 5 I. T. 95, 82 S. W. 686.

Thompson v. McLaughlin, 7 I. T. 1, 103 S. W. 595.

Atoka Coal Mining Co. v. Adams, 3 I. T. 192, 53 S. W. 539, 104  
Fed. 471.

Coal & Improvement Co. v. McBride, 3 I. T. 223, 54 S. W. 1099.

Walker v. Roberson, 21 Okla. 894, 97 Pac. 609.

Fraer v. Washington, 125 Fed. 280.

McBride v. Farrington, 131 Fed. 797.

Cherokee Nation v. Hitchcock, 187 U. S. 303, 47 L. Ed. 183.

**Excessive Holdings of Lands—Misdemeanor.**

SEC. 17. That it shall be unlawful for any citizen of any one of said tribes to inclose or in any manner, by himself or through another, directly or indirectly, to hold possession of any greater amount of lands or other property belonging to any such nation or tribe than that which would be his approximate share of the lands belonging to such nation or tribe and that of his wife and his minor children as per allotment herein provided; and any person found in such possession of lands or other property in excess of his share and that of his family, as aforesaid, or having the same in any manner inclosed, at the expiration of nine months after the passage of this act, shall be deemed guilty of a misdemeanor.

Denton v. Capital Townsite Co., 5 I. T. 396, 82 S. W. 852.

Thomason v. McLaughlin, 7 I. T. 1, 103 S. W. 595.

Atoka Coal Mining Co. v. Adams, 3 I. T. 192, 53 S. W. 539.

Walker v. Roberson, 21 Okla. 894, 97 Pac. 609.

Summers v. Barks, 127 Pac. 402.

Williams v. First Nat'l Bank, 216 U. S. 582, 54 L. Ed. 625.

**Excessive Holdings—Penalty for.**

SEC. 18. That any person convicted of violating any of the provisions of sections sixteen and seventeen of this act shall be deemed guilty of a misdemeanor and punished by a fine of not less than one hundred dollars, and shall stand committed until such fine and costs are paid (such commitment not to exceed one day for every two dollars of said fine and costs), and shall forfeit possession of any property in question, and each day on which such offense is committed or continues to exist shall be deemed a separate offense. And the United States district attorneys in said Territory are required to see that the provisions of said sections are strictly enforced, and they shall at once proceed to dispossess all persons of such excessive holding of lands and to prosecute them for so unlawfully holding the same.

Atoka Coal Mining Co. v. Adams, 3 I. T. 192, 53 S. W. 539.

**Per Capita Payments Direct to Individuals.**

SEC. 19. That no payment of any moneys on any amount whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation.

**Dawes Commission—Authority of.**

SEC. 20. That the commission hereinbefore named shall have authority to employ, with approval of the Secretary of the Interior, all assistance necessary for the prompt and efficient performance of all duties herein imposed, including competent surveyors to make allotments, and to do any other needed work, and the Secretary of the Interior may detail competent clerks to aid them in the performance of their duties.

Martin v. U. S., 168 Fed. 198.

**Rolls of Citizenship—Method of Making.**

SEC. 21. That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their

parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to citizenship under Cherokee laws.

It shall make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims rendered the third day of February, eighteen hundred and ninety-six.

Said Commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes.

Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seventh, eighteen hundred and thirty, and to that end they may administer oaths, examine witnesses, and perform all other acts necessary thereto and make report to the Secretary of the Interior.

The roll of Creek freedmen made by J. W. Dunn, under authority of the United States, prior to March fourteenth, eighteen hundred and sixty-seven, is hereby confirmed, and said Commission is directed to enroll all persons now living whose names are found on said rolls, and all descendants born since the date of said roll to persons whose names are found thereon, with such other persons of African descent as may have been rightfully admitted by the lawful authorities of the Creek Nation.

It shall make a correct roll of all Choctaw freedmen entitled to citizenship under the treaties and laws of the Choctaw

Nation, and all their descendants born to them since the date of the treaty.

It shall make a correct roll of Chickasaw freedmen entitled to any rights or benefits under the treaty made in eighteen hundred and sixty-six between the United States and the Choctaw and Chickasaw tribes and their descendants born to them since the date of said treaty, and forty acres of land, including their present residences and improvements, shall be allotted to each, to be selected, held, and used by them until their rights under said treaty shall be determined in such manner as shall be hereafter provided by Congress.

The several tribes may, by agreement, determine the right of persons who for any reason may claim citizenship in two or more tribes, and to allotment of lands and distribution of moneys belonging to each tribe; but if no such agreement be made, then such claimant shall be entitled to such rights in one tribe only, and may elect in which tribe he will take such right; but if he fail or refuse to make such selection in due time, he shall be enrolled in the tribe with whom he has resided, and there be given such allotment and distributions, and not elsewhere.

No person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship: Provided, however, That nothing contained in this act shall be so construed as to militate against any rights or privileges which the Mississippi Choctaws may have under the laws of or the treaties with the United States.

Said Commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes, or to adopt any other means by them deemed necessary to enable them to make such rolls. They shall have access to all rolls and records of the several tribes, and the United States court in Indian Territory shall have jurisdiction to compel the officers of the tribal governments and custodians of such rolls and records to deliver same to said Commission, and on their

refusal or failure to do so to punish them as for contempt; as also to require all citizens of said tribes, and persons who should be so enrolled, to appear before said Commission for enrollment, at such times and places as may be fixed by said Commission, and to enforce obedience of all others concerned, so far as the same may be necessary, to enable said Commission to make rolls as herein required, and to punish anyone who may in any manner or by any means obstruct said work.

The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

The members of said Commission shall, in performing all duties required of them by law, have authority to administer oaths, examine witnesses, and send for persons and papers; and any person who shall wilfully and knowingly make any false affidavit or oath to any material fact or matter before any member of said Commission, or before any other officer authorized to administer oaths, to any affidavit or other paper to be filed or oath taken before said Commission, shall be deemed guilty of perjury, and on conviction thereof shall be punished as for such offense.

Dick v. Ross, 6 I. T. 85, 89 S. W. 664.

Ikard v. Minter, 4 I. T. 214, 69 S. W. 852.

Bruner v. Sanders, 26 Okla. 673, 110 Pac. 730.

Hooks v. Kennard, 28 Okla. 457, 114 Pac. 744.

Robinson v. Owen, 30 Okla. 484, 119 Pac. 995.

Ground v. Dingman, 127 Pac. 1078.

Kimberlin v. Commission, 104 Fed. 653.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

Fleming v. McCurtain, 215 U. S. 56, 54 L. Ed. 88.

Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.

Cherokee Nation v. Whitmire, 223 U. S. 108, 56 L. Ed. 370.

#### **Allotments to Members of Another Tribe.**

SEC. 22. That where members of one tribe, under intercourse laws, usages, or customs, have made homes within the

limits and on the lands of another tribe they may retain and take allotment, embracing same under such agreement as may be made between such tribes respecting such settlers; but if no such agreement be made, the improvements so made shall be appraised, and the value thereof, including all damages incurred by such settler incident to enforced removal, shall be paid to him immediately upon removal, out of any funds belonging to the tribe, or such settler, if he so desire, may make private sale of his improvements to any citizen of the tribe owning the lands: Provided, That he shall not be paid for improvements made on lands in excess of that to which he, his wife, and minor children are entitled to under this act.

#### **Agricultural Leases—Termination.**

SEC. 23. That all leases of agricultural or grazing land belonging to any tribe made after the first day of January, eighteen hundred and ninety-eight, by the tribe or any member thereof, shall be absolutely void, and all such grazing leases made prior to said date shall terminate on the first day of April, eighteen hundred and ninety-nine, and all such agricultural leases shall terminate on January first, nineteen hundred; but this shall not prevent individuals from leasing their allotments when made to them as provided in this act, nor from occupying or renting their proportionate shares of the tribal lands until the allotments herein provided for are made.

U. S. v. Lewis, 5 I. T. 1, 76 S. W. 299.

Sharrock v. Kreiger, 6 I. T. 466, 98 S. W. 161.

Scroggins v. Oliver, 7 I. T. 740, 104 S. W. 1161.

Barton v. Hulsey, 4 I. T. 260, 69 S. W. 868.

#### **Tribal Payments.**

SEC. 24. That all moneys paid into the United States treasury at Saint Louis, Missouri, under provisions of this act shall be placed to the credit of the tribe to which they belong; and the assistant United States treasurer shall give triplicate receipts therefor to the depositor.

**Delaware Segregation—Suit by Delaware Indians.**

SEC. 25. That before any allotment shall be made of lands in the Cherokee Nation, there shall be segregated therefrom by the Commission heretofore mentioned, in separate allotments or otherwise, the one hundred and fifty-seven thousand six hundred acres purchased by the Delaware tribe of Indians from the Cherokee Nation under agreement of April eighth, eighteen hundred and sixty-seven, subject to the judicial determination of the rights of said descendants and the Cherokee Nation under said agreement. That the Delaware Indians residing in the Cherokee Nation are hereby authorized and empowered to bring suit in the Court of Claims of the United States, within sixty days after the passage of this act, against the Cherokee Nation, for the purpose of determining the rights of said Delaware Indians in and to the lands and funds of said nation under their contract and agreement with the Cherokee Nation dated April eighth, eighteen hundred and sixty-seven; or the Cherokee Nation may bring a like suit against said Delaware Indians; and jurisdiction is conferred on said court to adjudicate and fully determine the same, with right of appeal to either party to the Supreme Court of the United States.

*Delaware Indians v. Cherokee Nation*, 193 U. S. 130, 48 L. Ed. 646.

**Termination of Tribal Laws.**

SEC. 26. That on and after the passage of this act the laws of the various tribes or nations of Indians shall not be enforced at law or in equity by the courts of the United States in the Indian Territory.

*McAlester v. Edgerton*, 3 I. T. 711, 64 S. W. 583.

*Nivens v. Nivens*, 4 I. T. 30, 64 S. W. 604.

*George v. Robb*, 4 I. T. 61, 64 S. W. 615.

*Heliker Jarvis Seminole Co. v. Lincoln*, 126 Pac. 723, 33 Okla. 425.

*Armstrong v. Wood*, 195 Fed. 137.

*Stephens v. Cherokee Nation*, 174 U. S. 444, 43 L. Ed. 1041.

**Location of Indian Inspector in Indian Territory.**

SEC. 27. That the Secretary of the Interior is authorized to locate one Indian inspector in Indian Territory, who may,

under his authority and discretion, perform any duties required of the Secretary of the Interior by law, relating to affairs therein.

### **Tribal Courts Abolished.**

SEC. 28. That on the first day of July, eighteen hundred and ninety-eight, all tribal courts in Indian Territory shall be abolished, and no officer of said courts shall thereafter have any authority whatever to do or perform any act theretofore authorized by any law in connection with said courts, or to receive any pay for same; and all civil and criminal causes then pending in any such court shall be transferred to the United States Court in said Territory by filing with the clerk of the court the original papers in the suit: Provided, That this section shall not be in force as to the Chickasaw, Choctaw, and Creek tribes or nations until the first day of October, eighteen hundred and ninety-eight.

*In re Poff's Guardianship*, 7 I. T. 59, 103 S. W. 765.

*Boudinot v. Boudinot*, 1 I. T. 107, 48 S. W. 1019.

*Tynon v. Crowell*, 3 I. T. 346, 58 S. W. 585.

*Campbell v. Scott*, 3 I. T. 466, 58 S. W. 719.

*In re Frazee*, 3 I. T. 590, 64 S. W. 545.

*George v. Robb*, 4 I. T. 61, 64 S. W. 615.

*Heliker Jarvis Seminole Co. v. Lincoln*, 126 Pac. 723, 33 Okla. 425.

*Hayes v. Barringer*, 104 S. W. 937, 168 Fed. 221.

*Stephens v. Cherokee Nation*, 174 U. S. 444, 43 L. Ed. 1041.

### **Atoka Agreement—Choctaw—Chickasaw Lands—Allotment of— Titles to Lands—Townsites—Coal and Asphalt—Jurisdiction of U. S. Courts—Railroads.**

SEC. 29. That the agreement made by the Commission to the Five Civilized Tribes with commissions representing the Choctaw and Chickasaw tribes of Indians on the twenty-third day of April, eighteen hundred and ninety-seven, as herein amended, is hereby ratified and confirmed, and the same shall be of full force and effect if ratified before the first day of December, eighteen hundred and ninety-eight, by a majority

of the whole number of votes cast by the members of said tribes at an election held for that purpose; and the executives of said tribes are hereby authorized and directed to make public proclamation that said agreement shall be voted on at the next general election, or at any special election to be called by such executives for the purpose of voting on said agreement; and at the election held for such purpose all male members of each of said tribes qualified to vote under his tribal laws shall have the right to vote at the election precinct most convenient to his residence, whether the same be within the bounds of his tribe or not: Provided, That no person whose right to citizenship in either of said tribes or nations is now contested in original or appellate proceedings before any United States court shall be permitted to vote at said election: Provided further, That the votes cast in both said tribes or nations shall be forthwith returned duly certified by the precinct officers to the national secretaries of said tribes or nations, and shall be presented by said national secretaries to a board of commissioners consisting of the principal chief and national secretary of the Choctaw Nation, the governor and national secretary of the Chickasaw Nation, and a member of the Commission to the Five Civilized Tribes, to be designated by the chairman of said Commission; and said board shall meet without delay at Atoka, in the Indian Territory, and canvass and count said votes and make proclamation of the result; and if said agreement as amended be so ratified, the provisions of this act shall then only apply to said tribes where the same do not conflict with the provisions of said agreement; but the provisions of said agreement, if so ratified, shall not in any manner affect the provisions of section fourteen of this act, which said amended agreement is as follows:

This agreement, by and between the Government of the United States, of the first part, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Cabaniss, and Alexander B. Montgomery, duly appointed and

authorized thereunto, and the governments of the Choctaw and Chickasaw tribes or nations of Indians in the Indian Territory, respectively, of the second part, entered into in behalf of such Choctaw and Chickasaw governments, duly appointed and authorized thereunto, viz., Green McCurtain, J. S. Standley, N. B. Ainsworth, Ben Hampton, Wesley Anderson, Amos Henry, D. C. Garland, and A. S. Williams, in behalf of the Choctaw Tribe or Nation, and R. M. Harris, I. O. Lewis, Holmes Colbert, P. S. Mosely, M. V. Cheadle, R. L. Murray, William Perry, A. H. Colbert, and R. L. Boyd, in behalf of the Chickasaw Tribe or Nation.

#### ALLOTMENT OF LANDS.

Witnesseth, That in consideration of the mutual undertakings, herein contained, it is agreed as follows:

That all the lands within the Indian Territory belonging to the Choctaw and Chickasaw Indians shall be allotted to the members of said tribes so as to give to each member of these tribes so far as possible a fair and equal share thereof, considering the character and fertility of the soil and the location and value of the lands.

That all the lands set apart for town sites, and the strip of land lying between the city of Fort Smith, Arkansas, and the Arkansas and Poteau rivers, extending up said river to the mouth of Mill Creek; and six hundred and forty acres each, to include the buildings now occupied by the Jones Academy, Tushkahoma Female Seminary, Wheelock Orphan Seminary, and Armstrong Orphan Academy, and ten acres for the capitol building of the Choctaw Nation; one hundred and sixty acres each, immediately contiguous to and including the buildings known as Bloomfield Academy, Lebanon Orphan Home, Harley Institute, Rock Academy, and Collins Institute, and five acres for the capitol building in the Chickasaw Nation, and the use of one acre of land for each church house now erected outside of the towns and eighty acres of land each for J. S. Murrow, H. R. Schermerhorn, and the widow of R. S.

Bell, who have been laboring as missionaries in the Choctaw and Chickasaw nations since the year eighteen hundred and sixty-six, with the same conditions and limitations as apply to lands allotted to the members of the Choctaw and Chickasaw nations, and to be located on lands not occupied by a Choctaw or a Chickasaw, and a reasonable amount of land, to be determined by the town-site commission, to include all court-houses and jails and other public buildings not hereinbefore provided for, shall be exempted from division. And all coal and asphalt in or under the lands allotted and reserved from allotment shall be reserved for the sole use of the members of the Choctaw and Chickasaw tribes, exclusive of freedmen: Provided, That where any coal or asphalt is hereafter opened on land allotted, sold, or reserved, the value of the use of the necessary surface for prospecting or mining, and the damage done to the other lands and improvements, shall be ascertained under the direction of the Secretary of the Interior and paid to the allottee or owner of the land by the lessee or party operating the same, before operations begin. That in order to such equal division, the lands of the Choctaws and Chickasaws shall be graded and appraised so as to give to each member, so far as possible, an equal value of the land: Provided further, That the Commission to the Five Civilized Tribes shall make a correct roll of Chickasaw freedmen entitled to any rights or benefits under the treaty made in eighteen hundred and sixty-six between the United States and the Choctaw and Chickasaw tribes and their descendants born to them since the date of said treaty, and forty acres of land, including their present residences and improvements, shall be allotted to each, to be selected, held, and used by them until their rights under said treaty shall be determined, in such manner as shall hereafter be provided by act of Congress.

That the lands allotted to the Choctaw and Chickasaw freedmen are to be deducted from the portion to be allotted under this agreement to the members of the Choctaw and Chickasaw tribes so as to reduce the allotment to the Choctaws and Chickasaws by the value of the same.

That the said Choctaw and Chickasaw freedmen who may be entitled to allotments of forty acres each shall be entitled each to land equal in value to forty acres of the average land of the two nations.

That in the appraisement of the lands to be allotted the Choctaw and Chickasaw tribes shall each have a representative, to be appointed by their respective executives, to co-operate with the Commission to the Five Civilized Tribes, or anyone making appraisements under the direction of the Secretary of the Interior in grading and appraising the lands preparatory to allotment. And the land shall be valued in the appraisement as if in its original condition, excluding the improvements thereon.

That the appraisement and allotment shall be made under the direction of the Secretary of the Interior, and shall begin as soon as the progress of the surveys, now being made by the United States Government, will admit.

That each member of the Choctaw and Chickasaw tribes, including Choctaw and Chickasaw freedmen, shall, where it is possible, have the right to take his allotment on land the improvements on which belong to him, and such improvements shall not be estimated in the value of his allotment. In the case of minor children, allotments shall be selected for them by their father, mother, guardian, or the administrator having charge of their estate, preference being given in the order named, and shall not be sold during his minority. Allotments shall be selected for prisoners, convicts, and incompetents by some suitable person akin to them, and due care taken that all persons entitled thereto have allotments made to them.

All the lands allotted shall be nontaxable while the title remains in the original allottee, but not to exceed twenty-one years from date of patent, and each allottee shall select from his allotment a homestead of one hundred and sixty acres, for which he shall have a separate patent, and which shall be inalienable for twenty-one years from date of patent. This provision shall also apply to the Choctaw and Chickasaw freedman

to the extent of his allotment. Selections for homesteads for minors to be made as provided herein in case of allotment, and the remainder of the lands allotted to said members shall be alienable for a price to be actually paid, and to include no former indebtedness or obligation—one-fourth of said remainder in one year, one-fourth in three years, and the balance of said alienable lands in five years from the date of the patent.

That all contracts looking to the sale or incumbrance in any way of the land of an allottee, except the sale hereinbefore provided, shall be null and void. No allottee shall lease his allotment, or any portion thereof, for a longer period than five years, and then without the privilege of renewal. Every lease which is not evidenced by writing, setting out specifically the terms thereof, or which is not recorded in the clerk's office of the United States court for the district in which the land is located, within three months after the date of its execution, shall be void, and the purchaser or lessee shall acquire no rights whatever by an entry or holding thereunder, and no such lease or any sale shall be valid as against the allottee unless providing to him a reasonable compensation for the lands sold or leased.

That all controversies arising between the members of said tribes as to their right to have certain lands allotted to them shall be settled by the commission making the allotments.

That the United States shall put each allottee in possession of his allotment and remove all persons therefrom objectionable to the allottee.

That the United States shall survey and definitely mark and locate the ninety-eighth (98th) meridian of west longitude between Red and Canadian rivers before allotment of the lands herein provided for shall begin.

#### MEMBERS' TITLES TO LANDS.

That, as soon as practicable after the completion of said allotments, the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation shall jointly execute, under their hands and the seals of the respective nations, and deliver to each of the said allottees patents conveying to him

## ATOKA AGREEMENT.

all the right, title, and interest of the Choctaws and Chickasaws in and to the land which shall have been allotted to them in conformity with the requirements of this agreement, excepting all coal and asphalt in or under said land. Said patents shall be framed in accordance with the provisions of this agreement, and shall embrace the land allotted to such patentee and no other land, and the acceptance of his patents by such allottee shall be operative as an assent on his part to the allotment and conveyance of all the lands of the Choctaws and Chickasaws in accordance with the provisions of this agreement, and as a relinquishment of all his right, title, and interest in and to any and all parts thereof, except the land embraced in said patents, except also his interest in the proceeds of all lands, coal, and asphalt herein excepted from allotment.

That the United States shall provide by law for proper record of land titles in the territory occupied by the Choctaw and Chickasaw tribes.

### RAILROADS.

The rights of way for railroads through the Choctaw and Chickasaw nations to be surveyed and set apart and platted to conform to the respective acts of Congress granting the same in cases where said rights of way are defined by such acts of Congress but in cases where the acts of Congress do not define the same, then Congress is memorialized to definitely fix the width of said rights of way for station grounds and between stations, so that railroads now constructed through said nations shall have, as near as possible, uniform rights of way; and Congress is also requested to fix uniform rates of fare and freight for all railroads through the Choctaw and Chickasaw nations; branch railroads now constructed and not built according to acts of Congress to pay the same rates for rights of way and station grounds as main lines.

### TOWN SITES.

It is further agreed that there shall be appointed a commission for each of the two nations. Each commission shall con-

sist of one member, to be appointed by the executive of the tribe for which said commission is to act, who shall not be interested in town property other than his home, and one to be appointed by the President of the United States. Each of said commissions shall lay out town sites, to be restricted as far as possible to their present limits, where towns are now located in the nation for which said commission is appointed. Said commission shall have prepared correct and proper plats of each town, and file one in the clerk's office of the United States district court for the district in which the town is located, and one with the principal chief or governor of the nation in which the town is located, and one with the Secretary of the Interior, be approved by him before the same shall take effect. When said towns are so laid out, each lot on which permanent, substantial, and valuable improvements, other than fences, tilage, and temporary houses, have been made, shall be valued by the commission provided for the nation in which the town is located at the price a fee-simple title to the same would bring in the market at the time the valuation is made, but not to include in such value the improvements thereon. The owner of the improvements on each lot shall have the right to buy one residence and one business lot at fifty per centum of the appraised value of such improved property, and the remainder of such improved property at sixty-two and one-half per centum of the said market value within sixty days from date of notice served on him that such lot is for sale, and if he purchases the same he shall, within ten days from his purchase, pay into the Treasury of the United States one-fourth of the purchase price, and the balance in three equal annual installments, and when the entire sum is paid shall be entitled to a patent for the same. In case the two members of the commission fail to agree as to the market value of any lot, or the limit or extent of said town, either of said commissioners may report any such disagreement to the judge of the district in which such town is located, who shall appoint a third member to act with said commission, who is not interested in town lots, who shall act with them to determine said value.

If such owner of the improvements on any lot fails within sixty days to purchase and make the first payment on same, such lot, with the improvements thereon, shall be sold at public auction to the highest bidder, under the direction of the aforesaid commission, and the purchaser at such sale shall pay to the owner of the improvements the price for which said lot shall be sold, less sixty-two and one-half per cent of said appraised value of the lot, and shall pay the sixty-two and one-half per cent of said appraised value into United States Treasury, under regulations to be established by the Secretary of the Interior, in four installments, as hereinbefore provided. The commission shall have the right to reject any bid on such lot which they consider below its value.

All lots not so appraised shall be sold from time to time at public auction (after proper advertisement) by the commission for the nation in which the town is located, as may seem for the best interest of the nations and the proper development of each town, the purchase price to be paid in four installments, as hereinbefore provided for improved lots. The commission shall have the right to reject any bid for such lots which they consider below its value.

All the payments herein provided for shall be made under the direction of the Secretary of the Interior into the United States Treasury, a failure of sixty days to make any one payment to be a forfeiture of all payments made and all rights under the contract: Provided, That the purchaser of any lot shall have the option of paying the entire price of the lot before the same is due.

No tax shall be assessed by any town government against any town lot unsold by the commission, and no tax levied against a lot sold, as herein provided, shall constitute a lien on same till the purchase price thereof has been fully paid to the nation.

The money paid into the United States Treasury for the sale of all town lots shall be for the benefit of the members of the Choctaw and Chickasaw tribes (freedmen excepted), and

at the end of one year from the ratification of this agreement, and at the end of each year thereafter, the funds so accumulated shall be divided and paid to the Choctaws and Chickasaws (freedmen excepted), each member of the two tribes to receive an equal portion thereof.

That no law or ordinance shall be passed by any town which interferes with the enforcement of or is in conflict with the laws of the United States in force in said Territory, and all persons in such towns shall be subject to said laws, and the United States agrees to maintain strict laws in the territory of the Choctaw and Chickasaw tribes against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

That said commission shall be authorized to locate, within a suitable distance from each town site, not to exceed five acres to be used as a cemetery, and when any town has paid into the United States Treasury, to be part of the fund arising from the sale of town lots, ten dollars per acre therefor, such town shall be entitled to a patent for the same, as herein provided for titles to allottees, and shall dispose of same at reasonable prices in suitable lots for burial purposes, the proceeds derived from such sales to be applied by the town government to the proper improvement and care of said cemetery.

That no charge or claim shall be made against the Choctaw or Chickasaw tribes by the United States for the expenses of surveying and platting the lands and town sites, or for grading, appraising, and allotting the lands, or for appraising and disposing of the town lots as herein provided.

That the land adjacent to Fort Smith, and lands for court-houses, jails, and other public purposes excepted from allotment, shall be disposed of in the same manner and for the same purposes as provided for town lots herein, but not till the Choctaw and Chickasaw councils shall direct such disposition to be made thereof, and said land adjacent thereto shall be placed under the jurisdiction of the city of Fort Smith, Arkansas, for police purposes.

There shall be set apart and exempted from appraisement and sale in the towns, lots upon which churches and parsonages are now built and occupied, not to exceed fifty feet front and one hundred feet deep for each church or parsonage: Provided, That such lots shall only be used for churches and parsonages, and when they cease to be used shall revert to the members of the tribes to be disposed of as other town lots: Provided further, That these lots may be sold by the churches for which they are set apart if the purchase money therefor is invested in other lot or lots in the same town, to be used for the same purpose and with the same conditions and limitations.

It is agreed that all the coal and asphalt within the limits of the Choctaw and Chickasaw nations shall remain and be the common property of the members of the Choctaw and Chickasaw tribes (freedmen excepted), so that each and every member shall have an equal and undivided interest in the whole; and no patent provided for in this agreement shall convey any title thereto. The revenues from coal and asphalt, or so much as shall be necessary, shall be used for the education of the children of Indian blood of the members of said tribes. Such coal and asphalt mines as are now in operation, and all others which may hereafter be leased and operated, shall be under the supervision and control of two trustees, who shall be appointed by the President of the United States, one on the recommendation of the principal chief of the Choctaw Nation, who shall be a Choctaw by blood, whose term shall be for four years, and one on the recommendation of the governor of the Chickasaw Nation, who shall be a Chickasaw by blood, whose term shall be for two years; after which the term of appointees shall be four years. Said trustees, or either of them, may at any time be removed by the President of the United States for good cause shown. They shall each give bond for the faithful performance of their duties, under such rules as may be prescribed by the Secretary of the Interior. Their salaries shall be fixed and paid by their respective nations, each of whom shall make full report of all his acts to

the Secretary of the Interior quarterly. All such acts shall be subject to the approval of said Secretary.

All coal and asphalt mines in the two nations, whether now developed or to be hereafter developed, shall be operated, and the royalties therefrom paid into the Treasury of the United States, and shall be drawn therefrom under such rules and regulations as shall be prescribed by the Secretary of the Interior.

All contracts made by the national agents of the Choctaw and Chickasaw nations for operating coal and asphalt with any person or corporations which were, on April twenty-third, eighteen hundred and ninety-seven, being operated in good faith, are hereby ratified and confirmed, and the lessee shall have the right to renew the same when they expire, subject to all the provisions of this act.

All agreements heretofore made by any person or corporation with any member or members of the Choctaw or Chickasaw nations, the object of which was to obtain such member or members permission to operate coal or asphalt, are hereby declared void: Provided, That nothing herein contained shall impair the rights of any holder or owner of a leasehold interest in any oil, coal rights, asphalt, or mineral which have been assented to by act of Congress, but all such interests shall continue unimpaired hereby, and shall be assured by new leases from such trustees of coal or asphalt claims described therein by application to the trustees within six months after the ratification of this agreement, subject, however, to payment of advance royalties herein provided for.

All leases under this agreement shall include the coal or asphaltum or other mineral, as the case may be, in or under nine hundred and sixty acres, which shall be in a square as nearly as possible and shall be for thirty years. The royalty on coal shall be fifteen cents per ton of two thousand pounds on all coal mined, payable on the 25th day of the month next succeeding that in which it is mined. Royalty on asphalt shall be sixty cents per ton, payable same as coal: Provided, That the Secretary of the Interior may reduce or advance roy-

alties on coal and asphalt when he deems it for the best interests of the Choctaws and Chickasaws to do so. No royalties shall be paid except into the United States Treasury, as herein provided.

All lessees shall pay on each coal or asphalt claim at the rate of one hundred dollars per annum, in advance, for the first and second years; two hundred dollars per annum, in advance, for the third and fourth years; and five hundred dollars for each succeeding year thereafter. All such payments shall be treated as advanced royalty on the mine or claim on which they are made, and shall be a credit as royalty when each said mine is developed and operated and its production is in excess of such guaranteed annual advance payments, and all persons having coal leases must pay said annual advanced payments on each claim whether developed or undeveloped: Provided, however, That should any lessee neglect or refuse to pay such advanced annual royalty for the period of sixty days after the same becomes due and payable on any lease, the lease on which default is made shall become null and void, and the royalties paid in advance thereon shall then become and be the money and property of the Choctaw and Chickasaw nations.

In surface, the use of which is reserved to present coal operators, shall be included such lots in towns as are occupied by lessees' houses—either occupied by said lessees' employees or as offices or warehouses: Provided, however, That in those town sites designated and laid out under the provision of this agreement where coal leases are now being operated and coal is being mined, there shall be reserved from appraisement and sale all lots occupied by houses of miners actually engaged in mining, and only while they are so engaged, and in addition thereto a sufficient amount of land, to be determined by the town-site board of appraisers, to furnish homes for the men actually engaged in working for the lessees operating said mines and a sufficient amount for all buildings and machinery for mining purposes: And provided further, That when the lessees shall cease to operate said mines, then and in that event

the lots of land so reserved shall be disposed of by the coal trustees for the benefit of the Choctaw and Chickasaw tribes.

That whenever the members of the Choctaw and Chickasaw tribes shall be required to pay taxes for the support of schools, then the fund arising from such royalties shall be disposed of for the equal benefit of their members (freedmen excepted) in such manner as the tribes may direct.

It is further agreed that the United States courts now existing, or that may hereafter be created, in the Indian Territory shall have exclusive jurisdiction of all controversies growing out of the titles, ownership, occupation, possession, or use of real estate, coal, and asphalt in the territory occupied by the Choctaw and Chickasaw tribes; and of all persons charged with homicide, embezzlement, bribery and embracery, breaches or disturbances of the peace, and carrying weapons, hereafter committed in the territory of said tribe, without reference to race or citizenship of the person or persons charged with such crime; and any citizen or officer of the Choctaw or Chickasaw nations charged with such crime shall be tried and, if convicted, punished as though he were a citizen or officer of the United States.

And sections sixteen hundred and thirty-six to sixteen hundred and forty-four, inclusive, entitled "Embezzlement," and sections seventeen hundred and eleven to seventeen hundred and eighteen, inclusive, entitled "Bribery and embracery," of Mansfield's Digest of the Laws of Arkansas, are hereby extended over and put in force in the Choctaw and Chickasaw nations; and the word "officer," where the same appears in said laws, shall include all officers of the Choctaw and Chickasaw governments; and the fifteenth section of the act of Congress entitled "An act to establish United States courts in the Indian Territory, and for other purposes," approved March first, eighteen hundred and eighty-nine, limiting jurors to citizens of the United States, shall be held not to apply to United States courts in the Indian Territory held within the limits of the Choctaw and Chickasaw nations; and all members of the

Choctaw and Chickasaw tribes, otherwise qualified, shall be competent jurors in said courts: Provided, That whenever a member of the Choctaw and Chickasaw nations is indicted for homicide, he may, within thirty days after such indictment and his arrest thereon, and before the same is reached for trial, file with the clerk of the court in which he is indicted his affidavit that he can not get a fair trial in said court; and it thereupon shall be the duty of the judge of said court to order a change of venue in such case to the United States district court for the western district of Arkansas, at Fort Smith, Arkansas, or to the United States district court for the eastern district, of Texas, at Paris, Texas, always selecting the court that in his judgment is nearest or most convenient to the place where the crime charged in the indictment is supposed to have been committed, which courts shall have jurisdiction to try the case; and in all said civil suits said courts shall have full equity powers; and whenever it shall appear to said court, at any stage in the hearing of any case, that the tribe is in any way interested in the subject-matter in controversy, it shall have power to summon in said tribe and make the same a party to the suit and proceed therein in all respects as if such tribe were an original party thereto; but in no case shall suit be instituted against the tribal government without its consent.

It is further agreed that no act, ordinance, or resolution of the council of either the Choctaw or Chickasaw tribes, in any manner affecting the land of the tribe, or of the individuals, after allotment, or the moneys or other property of the tribe or citizens thereof (except appropriations for the regular and necessary expenses of the government of the respective tribes), or the rights of any persons to employ any kind of labor, or the rights of any persons who have taken or may take the oath of allegiance to the United States, shall be of any validity until approved by the President of the United States. When such acts, ordinances, or resolutions passed by the council of either of said tribes shall be approved by the governor thereof, then it shall be the duty of the national secretary of

said tribe to forward them to the President of the United States, duly certified and sealed, who shall, within thirty days after their reception, approve or disapprove the same. Said acts, ordinances, or resolutions, when so approved, shall be published in at least two newspapers having a bona fide circulation in the tribe to be affected thereby, and when disapproved shall be returned to the tribe enacting the same.

It is further agreed, in view of the modification of legislative authority and judicial jurisdiction herein provided, and the necessity of the continuance of the tribal governments so modified, in order to carry out the requirements of this agreement, that the same shall continue for the period of eight years from the fourth day of March, eighteen hundred and ninety-eight. This stipulation is made in the belief that the tribal governments so modified will prove so satisfactory that there will be no need or desire for further change till the lands now occupied by the Five Civilized Tribes shall, in the opinion of Congress, be prepared for admission as a State to the Union. But this provision shall not be construed to be in any respect an abdication by Congress of power at any time to make needful rules and regulations respecting said tribes.

That all per capita payments hereafter made to the members of the Choctaw or Chickasaw nations shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account of such disbursements to said Secretary.

That the following sum be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for fulfilling treaty stipulations with the Chickasaw Nation of Indians, namely:

For arrears of interest, at five per centum per annum, from December thirty-first, eighteen hundred and forty, to June thirtieth, eighteen hundred and eighty-nine, on one hundred and eighty-four thousand one hundred and forty-three dollars and nine cents of the trust fund of the Chickasaw Nation erro-

neously dropped from the books of the United States prior to December thirty-first, eighteen hundred and forty, and restored December twenty-seventh, eighteen hundred and eighty-seven, by the award of the Secretary of the Interior, under the fourth article of the treaty of June twenty-second, eighteen hundred and fifty-two, and for arrears of interest, at five per centum per annum, from March eleventh, eighteen hundred and fifty, to March third, eighteen hundred and ninety, on fifty-six thousand and twenty-one dollars and forty-nine cents of the trust fund of the Chickasaw Nation erroneously dropped from the books of the United States March eleventh, eighteen hundred and fifty, and restored December twenty-seventh, eighteen hundred and eighty-seven, by the award of the Secretary of the Interior, under the fourth article of the treaty of June twenty-second, eighteen hundred and fifty-two, five hundred and fifty-eight thousand five hundred and twenty dollars and fifty-four cents, to be placed to the credit of the Chickasaw Nation with the fund to which it properly belongs: Provided, That if there be any attorneys' fees to be paid out of same, on contract heretofore made and duly approved by the Secretary of the Interior, the same is authorized to be paid by him.

It is further agreed that the final decision of the courts of the United States in the case of the Choctaw Nation and the Chickasaw Nation against the United States and the Wichita and affiliated bands of Indians, now pending, when made, shall be conclusive as the basis of settlement as between the United States and said Choctaw and Chickasaw nations for the remaining lands in what is known as the "Leased District," namely, the land lying between the ninety-eighth and one hundredth degrees of west longitude and between the Red and Canadian rivers, leased to the United States by the treaty of eighteen hundred and fifty-five, except that portion called the Cheyenne and Arapahoe country, heretofore acquired by the United States, and all final judgments rendered against said nations in any of the courts of the United States in favor of the United States or any citizen thereof shall first be paid out

of any sum hereafter found due said Indians for any interest they may have in the so-called "Leased District."

It is further agreed that all of the funds invested, in lieu of investment, treaty funds, or otherwise, now held by the United States in trust for the Choctaw and Chickasaw tribes, shall be capitalized within one year after the tribal governments shall cease, so far as the same may legally be done, and be appropriated and paid, by some officer of the United States appointed for the purpose, to the Choctaws and Chickasaws (freedmen excepted) per capita, to aid and assist them in improving their homes and lands.

It is further agreed that the Choctaws and Chickasaws, when their tribal governments cease, shall become possessed of all the rights and privileges of citizens of the United States.

#### ORPHAN LANDS.

It is further agreed that the Choctaw orphan lands in the State of Mississippi, yet unsold, shall be taken by the United States at one dollar and twenty-five cents (\$1.25) per acre, and the proceeds placed to the credit of the Choctaw orphan fund in the Treasury of the United States, the number of acres to be determined by the General Land Office.

In witness whereof the said commissioners do hereunto affix their names, at Atoka, Indian Territory, this the twenty-third day of April, eighteen hundred and ninety-seven.

Bruner v. U. S., 4 I. T. 580, 76 S. W. 244.

Hampton v. Mays, 4 I. T. 503, 69 S. W. 1115.

Zevely v. Weimer, 5 I. T. 689, 82 S. W. 941.

In re Poff's Guardianship, 7 I. T. 59, 103 S. W. 765.

Kelly v. Harper, 7 I. T. 541, 104 S. W. 829.

Sayer v. Brown, 7 I. T. 675, 104 S. W. 877.

Hayes v. Barringer, 7 I. T. 697, 104 S. W. 937, 168 Fed. 221.

Boudinot v. Boudinot, 1 I. T. 107, 48 S. W. 1019.

Ainsley v. Ainsworth, 4 I. T. 308, 69 S. W. 884.

Thompson v. Morgan, 4 I. T. 412, 69 S. W. 920.

DeGraffenried v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

Lewis v. Clements, 21 Okla. 167, 95 Pac. 769.

- Bristow v. Carrigan, 24 Okla. 325, 103 Pac. 596.  
Garrett v. Wolcott, 25 Okla. 574, 106 Pac. 848.  
Simmons v. Whittington, 27 Okla. 356, 112 Pac. 1018.  
Howard v. Farrar, 28 Okla. 490, 114 Pac. 695.  
Gleason v. Wood, 28 Okla. 502, 114 Pac. 703, 224 U. S. 679, 56 L. Ed. 947.  
In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.  
Williams v. Johnson, 32 Okla. 247, 122 Pac. 485.  
Redwine v. Ansley, 32 Okla. 317, 122 Pac. 679.  
Rogers v. Noel, 124 Pac. 976.  
Brown v. Ledbetter, 32 Okla. 513, 122 Pac. 131.  
Beck v. Jackson, 23 Okla. 812, 101 Pac. 1109.  
Lipscomb v. Allen, 23 Okla. 818, 102 Pac. 86.  
In re Feland's Estate, 26 Okla. 448, 110 Pac. 736.  
Sorrels v. Jones, 26 Okla. 569, 110 Pac. 743.  
The 30,000 land suits, 199 Fed. 811.  
Elliott v. Garvin, 104 S. W. 878, 166 Fed. 278.  
Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.  
Morris v. Hitchcock, 194 U. S. 384, 48 L. Ed. 1030.  
Fleming v. McCurtain, 215 U. S. 56, 54 L. Ed. 88.  
Ballinger v. Frost, 216 U. S. 240, 54 L. Ed. 464.  
Williams v. First Nat'l Bank, 216 U. S. 582, 54 L. Ed. 625.  
Hendrix v. United States, 219 U. S. 79, 55 L. Ed. 102.  
Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.  
Choate v. Trapp, 224 U. S. 665, 56 L. Ed. 941.  
Harper v. Kelly, 29 Okla. 809, 120 Pac. 293.

## FURTHER ANNOTATIONS.

ORIGINAL CURTIS ACT AND ATOKA AGREEMENT.

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FURTHER ANNOTATIONS.

## REJECTED CREEK AGREEMENT.

## AGREEMENT WITH MUSCOGEE OR CREEK TRIBE OF INDIANS.

Approved June 28, 1898.

(30 Stat. L. 514.)

(The following Section 30 was rejected by Creek Nation at an election held November 1st, 1898, it therefore never became effective.)

**Allotment of Lands—Titles and Patents—Townsites—Jurisdiction of Courts—Enactments of Council.**

SECTION 30. That the agreement made by the Commission to the Five Civilized Tribes with the commission representing the Muscogee (or Creek) tribe of Indians on the twenty-seventh day of September, eighteen hundred and ninety-seven, as herein amended, is hereby ratified and confirmed, and the same shall be of full force and effect if ratified before the first day of December, eighteen hundred and ninety-eight, by a majority of the votes cast by the members of said tribe at an election to be held for that purpose; and the executive of said tribe is authorized and directed to make public proclamation that said agreement shall be voted on at the next general election, to be called by such executive for the purpose of voting on said agreement; and if said agreement as amended be so ratified, the provisions of this Act shall then only apply to said tribe where the same do not conflict with the provisions of said agreement; but the provisions of said agreement, if so ratified, shall not in any manner affect the provisions of section fourteen of this Act, which said amended agreement is as follows:

This agreement by and between the Government of the United States of the first part, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Frank C. Armstrong, Archibald S. McKennon, Alexander B. Montgomery, and Tams Bixby, duly appointed and authorized thereunto, and the government of the Muscogee or Creek Nation in the Indian Territory of the second part, entered into in

behalf of such Muscogee or Creek government, by its commission, duly appointed and authorized thereunto, viz., Pleasant Porter, Joseph Mingo, David N. Hodge, George A. Alexander, Roland Brown, William A. Sapulpa, and Conchartie Micco.

Witnesseth, That in consideration of the mutual undertakings herein contained, it is agreed as follows:

GENERAL ALLOTMENT OF LAND.

1. There shall be allotted out of the lands owned by the Muscogee or Creek Indians in the Indian Territory to each citizen of said nation one hundred and sixty acres of land. Each citizen shall have the right, so far as possible, to take his one hundred and sixty acres so as to include the improvements which belong to him, but such improvements shall not be estimated in the value fixed on his allotment, provided any citizen may take any land not already selected by another; but if such land, under actual cultivation, has on it any lawful improvements, he shall pay the owner of said improvements for same, the value to be fixed by the commission appraising the land. In the case of a minor child, allotment shall be selected for him by his father, mother, guardian, or the administrator having charge of his estate, preference being given in the order named, and shall not be sold during his minority. Allotments shall be selected for prisoners, convicts, and incompetents by some suitable person akin to them, and due care shall be taken that all persons entitled thereto shall have allotments made to them.

2. Each allotment shall be appraised at what would be its present value, if unimproved, considering the fertility of the soil and its location, but excluding the improvements, and each allottee shall be charged with the value of his allotment in the future distribution of any funds of the nation arising from any source whatever, so that each member of the nation shall be made equal in the distribution of the lands and moneys belonging to the nation, provided that the minimum valuation to

be placed upon any land in the said nation shall be one dollar and twenty-five cents (\$1.25) per acre.

3. In the appraisalment of the said allotment, said nation may have a representative to co-operate with a commission, or a United States officer, designated by the President of the United States, to make the appraisalment. Appraisements and allotments shall be made under the direction of the Secretary of the Interior, and begin as soon as an authenticated roll of the citizens of the said nation has been made. All citizens of said nation, from and after the passage of this Act, shall be entitled to select from the lands of said nation an amount equal to one hundred and sixty acres, and use and occupy the same until the allotments therein provided are made.

4. All controversies arising between the members of said nation as to their rights to have certain lands allotted to them shall be settled by the commission making allotments.

5. The United States shall put each allottee in unrestricted possession of his allotment and remove therefrom all persons objectionable to the allottee.

6. The excess of lands after allotment is completed, all funds derived from town sites, and all other funds accruing under the provisions of this agreement shall be used for the purpose of equalizing allotments valued as herein provided, and if the same be found insufficient for such purpose, the deficiency shall be supplied from other funds of the nation upon dissolution of its tribal relations with the United States, in accordance with the purposes and intent of this agreement.

7. The residue of the lands, with the improvements thereon, if any there be, shall be appraised separately, under the direction of the Secretary of the Interior, and said lands and improvements sold in tracts of not to exceed one hundred and sixty acres to one person, to the highest bidder, at public auction, for not less than the appraised value per acre of land; and after deducting the appraised value of the lands, the remainder of the purchase money shall be paid to the owners of the improvement.

8. Patents to all lands sold shall be issued in the same manner as to allottees.

SPECIAL ALLOTMENTS.

9. There shall be allotted and patented one hundred and sixty acres each to Mrs. A. E. W. Robertson and Mrs. H. F. Buckner (nee Grayson) as special recognition of their services as missionaries among the people of the Creek Nation.

10. Harrell Institute, Henry Kendall College, and Nazareth Institute, in Muscogee, and Baptist University, near Muscogee, shall have free of charge, to be allotted and patented to said institutions or to the churches to which they belong, the grounds they now occupy, to be used for school purposes only and not to exceed ten acres each.

RESERVATIONS.

11. The following lands shall be reserved from the general allotment hereinbefore provided:

All lands hereinafter set apart for town sites; all lands which shall be selected for town cemeteries by the town-site commission as hereinafter provided; all lands that may be occupied at the time allotment begins by railroad companies duly authorized by Congress as railroad rights of way; one hundred sixty acres at Okmulgee, to be laid off as a town, one acre of which, now occupied by the capitol building, being especially reserved for said public building; one acre for each church now located and used for purposes of worship outside of the towns, and sufficient land for burial purposes, where neighborhood burial grounds are now located; one hundred sixty acres each, to include the building sites now occupied, for the following educational institutions: Eufaula High School, Wealaka Mission, New Yaka Mission, Wetumpka Mission, Euchee Institute, Coweta Mission, Creek Orphan Home, Tallahassee Mission (colored), Pecan Creek Mission (colored), and Colored Orphan Home. Also four acres each for the six court-houses now established.

## TITLES.

12. As soon as practicable after the completion of said allotments the principal chief of the Muscogee or Creek Nation shall execute under his hand and the seal of said nation, and deliver to each of said allottees, a patent, conveying to him all the right, title, and interest of the said nation in and to the land which shall have been allotted to him in conformity with the requirements of this agreement. Said patents shall be framed in accordance with the provisions of this agreement and shall embrace the land allotted to such patentee and no other land. The acceptance of this patent by such allottee shall be operative as an assent on his part to the allotment and conveyance of all the land of the said nation in accordance with the provisions of this agreement, and as a relinquishment of all his rights, title, and interest in and to any and all parts thereof, except the land embraced in said patent; except, also, his interest in the proceeds of all lands herein excepted from allotment.

13. The United States shall provide by law for proper record of land titles in the territory occupied by the said nation.

## TOWN SITES.

14. There shall be appointed a commission, which shall consist of one member appointed by the executive of the Muscogee or Creek Nation, who shall not be interested in town property other than his home, and one member who shall be appointed by the President of the United States. Said commission shall lay out town sites, to be restricted as far as possible to their present limits, where towns are now located. No town laid out and platted by said commission shall cover more than four square miles of territory.

15. When said towns are laid out, each lot on which substantial and valuable improvements have been made shall be valued by the commission at the price a fee-simple title to the same would bring in the market at the time the valuation is

made, but not to include in such value the improvements thereon.

16. In appraising the value of town lots, the number of inhabitants, the location and surrounding advantages of the town shall be considered.

17. The owner of the improvements on any lot shall have the right to buy the same at fifty per centum of the value within sixty days from the date of notice served on him that such lot is for sale, and if he purchase the same he shall, within ten days from his purchase, pay into the Treasury of the United States one-fourth of the purchase price and the balance in three equal annual payments, and when the entire sum is paid he shall be entitled to a patent for the same, to be made as herein provided for patents to allottees.

18. In any case where the two members of the commission fail to agree as to the value of any lot they shall select a third person, who shall be a citizen of said nation and who is not interested in town lots, who shall act with them to determine said value.

19. If the owner of the improvements on any lot fail within sixty days to purchase and make the first payment on the same, such lot, with the improvements thereon (said lot and the improvements thereon having been theretofore properly appraised), shall be sold at public auction to the highest bidder, under the direction of said commission, at a price not less than the value of the lot and improvements, and the purchaser at such sale shall pay to the owner of the improvements the price for which said lot and the improvements thereon shall be sold, less fifty per centum of said appraised value of the lot, and shall pay fifty per centum of said appraised value of the lot into the United States Treasury, under regulations to be established by the Secretary of the Interior, in four installments, as hereinbefore provided. Said commission shall have the right to reject a bid on any lot and the improvements thereon which it may consider below the real value.

20. All lots not having improvements thereon and not so appraised shall be sold by the commission from time to time

at public auction, after proper advertisement, as may seem for the best interest of the said nation and the proper development of each town, the purchase price to be paid in four installments, as hereinbefore provided for improved lots.

21. All citizens or persons who have purchased the right of occupancy from parties in legal possession prior to the date of signing this agreement, holding lots or tracts of ground in towns, shall have the first right to purchase said lots or tracts upon the same terms and conditions as is provided for improved lots, provided said lots or tracts shall have been therefore properly appraised, as hereinbefore provided for improved lots.

22. Said commission shall have the right to reject any bid for such lots or tracts which is considered by said commission below the fair value of the same.

23. Failure to make any one of the payments as heretofore provided for a period of sixty days shall work a forfeiture of all payments made and all rights under the contract; provided that the purchaser of any lot may pay full price before the same is due.

24. No tax shall be assessed by any town government against any town lot unsold by the commission, and no tax levied against a lot sold as herein provided shall constitute a lien on the same until the purchase price thereof has been fully paid.

25. No law or ordinance shall be passed by any town which interferes with the enforcement of or is in conflict with the constitution or laws of the United States, or in conflict with this agreement, and all persons in such towns shall be subject to such laws.

26. Said commission shall be authorized to locate a cemetery within a suitable distance from each town site, not to exceed twenty acres; and when any town shall have paid into the United States Treasury for the benefit of the said nation ten dollars per acre therefor, such town shall be entitled to a patent for the same, as herein provided for titles to allottees.

and shall dispose of same at reasonable prices in suitable lots for burial purposes; the proceeds derived therefrom to be applied by the town government to the proper improvement and care of said cemetery.

27. No charge or claim shall be made against the Muscogee or Creek Nation by the United States for the expenses of surveying and platting the lands and town site, or for grading, appraising and allotting the land, or for appraising and disposing of the town lots as herein provided.

28. There shall be set apart and exempted from appraisement and sale, in the towns, lots upon which churches and parsonages are now built and occupied, not to exceed fifty feet front and one hundred and fifty feet deep for each church and parsonage. Such lots shall be used only for churches and parsonages, and when they cease to be so used, shall revert to the members of the nation, to be disposed of as other town lots.

29. Said commission shall have prepared correct and proper plats of each town, and file one in the clerk's office of the United States district court for the district in which the town is located, one with the executive of the nation, and one with the Secretary of the Interior, to be approved by him before the same shall take effect.

30. A settlement numbering at least three hundred inhabitants, living within a radius of one-half mile at the time of the signing of this agreement, shall constitute a town within the meaning of this agreement. Congress may by law provide for the government of the said towns.

#### CLAIMS.

31. All claims, of whatever nature, including the "Loyal Creek Claim" made under article 4 of the treaty of 1866, and the "Self Emigration Claim," under article 12 of the treaty of 1832, which the Muscogee or Creek Nation, or individuals thereof, may have against the United States, or any claim which the United States may have against the said nation,

## REJECTED CREEK AGREEMENT.

shall be submitted to the Senate of the United States as a board of arbitration; and all such claims against the United States shall be presented within one year from the date hereof, and within two years from the date hereof the Senate of the United States shall make final determination of said claim; and in the event that any moneys are awarded to the Muscogee or Creek Nation, or individuals thereof, by the United States, provision shall be made for the immediate payment of the same by the United States.

## JURISDICTION OF COURTS.

32. The United States courts now existing, or that may hereafter be created in the Indian Territory, shall have exclusive jurisdiction of all controversies growing out of the title, ownership, occupation, or use of real estate in the territory occupied by the Muscogee or Creek Nation, and to try all persons charged with homicide, embezzlement, bribery, and embezzlement hereafter committed in the territory of said Nation, without reference to race or citizenship of the person or persons charged with any such crime; and any citizen or officer of said nation charged with any such crime shall be tried, and, if convicted, punished as though he were a citizen or officer of the United States; and the courts of said nation shall retain all the jurisdiction which they now have, except as herein transferred to the courts of the United States.

## ENACTMENTS OF NATIONAL COUNCIL.

33. No act, ordinance, or resolution of the council of the Muscogee or Creek Nation in any manner affecting the land of the nation, or of individuals, after allotment, or the moneys or other property of the nation, or citizens thereof (except appropriations for the regular and necessary expenses of the government of the said nation), or the rights of any person to employ any kind of labor, or the rights of any persons who have taken or may take the oath of allegiance to the United States, shall be of any validity until approved by the President

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of the United States. When such act, ordinance, or resolution passed by the council of said nation shall be approved by the executive thereof, it shall then be the duty of the national secretary of said nation to forward same to the President of the United States, duly certified and sealed, who shall, within thirty days after receipt thereof, approve or disapprove the same, and said act, ordinance, or resolution, when so approved, shall be published in at least two newspapers having a bona fide circulation throughout the territory occupied by said nation, and when disapproved shall be returned to the executive of said nation.

### MISCELLANEOUS.

34. Neither the town lots nor the allotment of land of any citizen of the Muscogee or Creek Nation shall be subjected to any debt contracted by him prior to the date of his patent.

35. All payments herein provided for shall be made, under the direction of the Secretary of the Interior, into the United States Treasury, and shall be for the benefit of the citizens of the Muscogee or Creek Nation. All payments hereafter to be made to the members of the said nation shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account for such disbursements to the Secretary.

36. The United States agrees to maintain strict laws in the territory of said nation against the introduction, sale, barter, or giving away of liquors and intoxicants of any kind or quality.

37. All citizens of said nation, when the tribal government shall cease, shall become possessed of all the rights and privileges of citizens of the United States.

38. This agreement shall in no wise affect the provisions of existing treaties between the Muscogee or Creek Nation and the United States, except in so far as it is inconsistent therewith.

## ORIGINAL CREEK TREATY.

8) In witness whereof, the said Commissioners do hereunto  
affix their names at Muscogee, Indian Territory, this the  
twenty-seventh day of September, eighteen hundred and nine-  
ty-seven.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

## ORIGINAL CREEK TREATY.

(31 Stat. L. 861.)

Approved March 1, 1901, and Ratified by the Creek Nation May 25, 1901.

AN ACT TO RATIFY AND CONFIRM AN AGREEMENT  
WITH THE MUSCOGEE OR CREEK TRIBE OF INDIANS,  
AND FOR OTHER PURPOSES.

**Preamble—Mode of Adoption and Ratification.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the agreement negotiated between the Commission to the Five Civilized Tribes and the Muskogee or Creek Tribe of Indians at the city of Washington on the eighth day of March, nineteen hundred, as herein amended, is hereby accepted, ratified, and confirmed, and the same shall be of full force and effect when ratified by the Creek national council. The principal chief, as soon as practicable after the ratification of this agreement by Congress, shall call an extra session of the Creek national council and lay before it this agreement and the act of Congress ratifying it, and if the agreement be ratified by said council, as provided in the constitution of said nation, he shall transmit to the President of the United States the act of council ratifying the agreement, and the President of the United States shall thereupon issue his proclamation declaring the same duly ratified, and that all the provisions of this agreement have become law according to the terms thereof: Provided, that

## ORIGINAL CREEK TREATY.

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such ratification by the Creek national council shall be made within ninety days from the approval of this act by the President of the United States.

This agreement by and between the United States, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Tams Bixby, Archibald S. McKennon, and Thomas B. Needles, duly appointed and authorized thereunto, and the Muskogee (or Creek) tribe of Indians, in Indian Territory, entered into in behalf of said tribe by Pleasant Porter, principal chief, and George A. Alexander, David M. Hodge, Isparhecher, Albert P. McKellop, and Cub McIntosh, delegates, duly appointed and authorized thereunto.

Witnesseth that in consideration of the mutual undertakings herein contained it is agreed as follows:

### DEFINITIONS.

#### Definitions.

1. The words "Creek" and "Muskogee," as used in this agreement, shall be deemed synonymous, and the words "Creek Nation" and "tribe" shall each be deemed to refer to the Muskogee Nation or Muskogee tribe of Indians in Indian Territory. The words "principal chief" shall be deemed to refer to the principal chief of the Muskogee Nation. The words "citizen" or "citizens" shall be deemed to refer to a member or members of the Muskogee tribe or nation of Indians. The words "The Dawes Commission" or "Commission" shall be deemed to refer to the United States Commission to the Five Civilized Tribes.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

### GENERAL ALLOTMENT OF LANDS.

#### Standard of Allotments—Appraisement.

2. All lands belonging to the Creek tribe of Indians in the Indian Territory, except town sites and lands herein reserved for Creek schools and public buildings, shall be appraised at

their true value, excluding only improvements on lands in actual cultivation. The appraisement shall be made under direction of the Dawes Commission by such number of committees, with necessary assistance, as may be deemed necessary to expedite the work, one member of each committee to be appointed by the principal chief; and if the members of any committee fail to agree as to the value of any tract of land, the value thereof shall be fixed by said Commission. Each Committee shall make report of its work to said Commission, which shall from time to time prepare reports of same, in duplicate, and transmit them to the Secretary of the Interior for his approval, and when approved one copy thereof shall be returned to the office of said Commission for its use in making allotments as herein provided.

Fawcett v. Hill, 29 Okla. 461, 118 Pac. 132.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

#### Allotment of Lands—Appraised Value.

3. All lands of said tribe, except as herein provided, shall be allotted among the citizens of the tribe by said Commission so as to give to each an equal share of the whole in value, as nearly as may be, in manner following: There shall be allotted to each citizen one hundred and sixty acres of land—boundaries to conform to the Government survey—which may be selected by him so as to include improvements which belong to him. One hundred and sixty acres of land, valued at six dollars and fifty cents per acre, shall constitute the standard value of an allotment, and shall be the measure for the equalization of values, and any allottee receiving lands of less than such standard value may, at any time, select other lands which, at their appraised value, are sufficient to make his allotment equal in value to the standard so fixed.

If any citizen select lands, the appraised value of which, for any reason, is in excess of such standard value, the excess of value shall be charged against him in the future distribution of the funds of the tribe arising from all sources whatsoever,

and he shall not receive any further distribution of property or funds of the tribe until all other citizens have received lands and money equal in value to his allotment. If any citizen select lands the appraised value of which is in excess of such standard value, he may pay the overplus in money, but if he fail to do so, the same shall be charged against him in the future distribution of the funds of the tribe arising from all sources whatsoever, and he shall not receive any further distribution of property or funds until all other citizens shall have received lands and funds equal in value to his allotment; and if there be not sufficient funds of the tribe to make the allotments of all other citizens of the tribe equal in value to his, then the surplus shall be a lien upon the rents and profits of his allotment until paid.

Garrett v. American Baptist Home Mission Society, 29 Okla. 272, 116 Pac. 921.

Fawcett v. Hill, 29 Okla. 461, 118 Pac. 132.

Barnett v. Way, 29 Okla. 780, 119 Pac. 418.

Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602.

U. S. v. Ft. Smith & W. R. Co., 195 Fed. 211.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

Reed v. Welty, 197 Fed. 419.

#### **Allotments of Minors, Etc., How Selected.**

4. Allotment for any minor may be selected by his father, mother, or Guardian, in the order named, and shall not be sold during his minority. All guardians or curators appointed for minors and incompetents shall be citizens.

Allotments may be selected for prisoners, convicts, and aged and infirm persons by their duly appointed agents, and for incompetents by guardians, curators, or suitable persons akin to them, but it shall be the duty of said Commission to see that such selections are made for the best interests of such parties.

International Land Co. v. Marshall, 22 Okla. 693, 98 Pac. 951.

Blakemore v. Johnson, 24 Okla. 544, 103 Pac. 554.

Jefferson v. Winkler, 26 Okla. 653, 110 Pac. 755.

Texas Co. v. Henry, 126 Pac. 224.

United States v. Shock, 187 Fed. 862.

United States v. Ft. Smith & W. R. Co., 195 Fed. 211.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

**Excessive Holdings—Disposition of Improvements.**

5. If any citizen have in his possession, in actual cultivation, lands in excess of what he and his wife and minor children are entitled to take, he shall, within ninety days after the ratification of this agreement, select therefrom allotments for himself and family aforesaid, and if he have lawful improvements upon such excess he may dispose of the same to any other citizen, who may thereupon select lands so as to include such improvements; but, after the expiration of ninety days from the ratification of this agreement, any citizen may take any lands not already selected by another; but if lands so taken be in actual cultivation, having thereon improvements belonging to another citizen, such improvements shall be valued by the appraisement committee, and the amount paid to the owner thereof by the allottee, and the same shall be a lien upon the rents and profits of the land until paid: Provided, That the owner of improvements may remove the same if he desires.

United States v. Ft. Smith & W. R. Co., 195 Fed. 211.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

**Allotments Previously Made Confirmed.**

6. All allotments made to Creek citizens by said Commission prior to the ratification of this agreement, as to which there is no contest, and which do not include public property, and are not herein otherwise affected, are confirmed, and the same shall, as to appraisement and all things else, be governed by the provisions of this agreement; and said Commission shall continue the work of allotment of Creek lands to citizens of the tribe as heretofore, conforming to provisions herein; and all controversies arising between citizens as to their right to select certain tracts of land shall be determined by said Commission.

*Commission report*

De Graffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

Garrett v. Walcott, 25 Okla. 574, 106 Pac. 848.

Sanders v. Sanders, 28 Okla. 59.

Barnett v. Way, 29 Okla. 780, 119 Pac. 418.

Groom v. Wright, 30 Okla. 652, 121 Pac. 215.

Divine v. Harmon, 30 Okla. 820, 121 Pac. 219.

Shellenbarger v. Fewel, — Okla. —, 124 Pac. 617.

Parkinson v. Skelton, 33 Okla. 813, 128 Pac. 131.

Armstrong v. Wood, 195 Fed. 137.

### **Allotments Inalienable and Non Taxable—Descent of Homesteads.**

7. Lands allotted to citizens hereunder shall not in any manner whatsoever, or at any time, be incumbered, taken, or sold to secure or satisfy any debt or obligation contracted or incurred prior to the date of the deed to the allottee therefor, and such lands shall not be alienable by the allottee or his heirs at any time before the expiration of five years from the ratification of this agreement, except with the approval of the Secretary of the Interior.

Each citizen shall select from his allotment forty acres of land as a homestead, which shall be non-taxable and inalienable and free from any incumbrance whatever for twenty-one years, for which he shall have a separate deed, conditioned as above: Provided, That selections of homesteads for minors, prisoners, convicts, incompetents, and aged and infirm persons, who can not select for themselves, may be made in the manner herein provided for the selection of their allotments; and if, for any reason, such selection be not made for any citizen, it shall be the duty of said Commission to make selection for him.

The homestead of each citizen shall remain, after the death of the allottee, for the use and support of children born to him after the ratification of this agreement, but if he have no such issue, then he may dispose of his homestead by will, free from limitation herein imposed, and if this be not done, the land shall descend to his heirs, according to the laws of descent and distribution of the Creek Nation, free from such limitation.

## ORIGINAL CREEK TREATY.

*s v. Hardridge*, 7 I. T. 532, 104 S. W. 826.  
*DeGraffenreid v. Iowa Land & Trust Co.*, 20 Okla. 687, 95 Pac. 624.  
*Id v. Okmulgee Loan & Trust Co.*, 22 Okla. 742, 98 Pac. 929.  
*Tate v. Gaines*, 25 Okla. 141, 105 Pac. 193.  
*Bruner v. Sanders*, 26 Okla. 673, 110 Pac. 730.  
*Lamb v. Baker*, 27 Okla. 739, 117 Pac. 189.  
*Sanders v. Sanders*, 28 Okla. 59.  
*Barnes v. Stonebreaker*, 28 Okla. 75, 113 Pac. 903.  
*Skelton v. Dill*, 30 Okla. 278, 119 Pac. 267.  
*Groom v. Wright*, 30 Okla. 652, 121 Pac. 215.  
*Divine v. Harmon*, 30 Okla. 820, 121 Pac. 219.  
*Jefferson v. Winkler*, 26 Okla. 653, 110 Pac. 755.  
*Checote v. Hardridge*, — Okla. —, 123 Pac. 846.  
*Shellenbarger v. Fewel*, — Okla. —, 124 Pac. 617.  
*Reynolds v. Fewel*, — Okla. —, 124 Pac. 623.  
*Parkinson v. Skelton*, 33 Okla. 813, 128 Pac. 131.  
*Harris v. Hardridge*, 104 S. W. 826, 166 Fed. 109.  
*United States v. Ft. Smith & W. R. Co.*, 195 Fed. 211.  
*Hawkins v. Okla. Oil Co.*, 195 Fed. 345.  
*Reed v. Welty*, 197 Fed. 419.  
*The 30,000 Land Suits*, 199 Fed. 811.  
*Tiger v. Western Investment Co.*, 221 U. S. 286, 55 L. Ed. 738.  
*Coachman v. Sims*, 129 Pac. 845.

### Allottees to Have Possession of Allotments.

8. The Secretary of the Interior shall, through the United States Indian agent in said Territory, immediately after the ratification of this agreement, put each citizen who has made selection of his allotment in unrestricted possession of his land and remove therefrom all persons objectionable to him; and when any citizen shall thereafter make selection of his allotment as herein provided, and receive certificate therefor, he shall be immediately thereupon so placed in possession of his land.

*DeGraffenreid v. Iowa Land & Trust Co.*, 20 Okla. 687, 95 Pac. 624.  
*Hawkins v. Okla. Oil Co.*, 195 Fed. 345.

### Equalization of Allotments.

9. When allotment of one hundred and sixty acres has been made to each citizen, the residue of lands, not herein

reserved or otherwise disposed of, and all the funds arising under this agreement shall be used for the purpose of equalizing allotments, and if the same be insufficient therefor the deficiency shall be supplied out of any other funds of the tribe, so that the allotments of all citizens may be made equal in value, as nearly as may be, in manner herein provided.

## TOWN SITES.

**Townsites—Surveys—Townsite Commissions.**

10. All towns in the Creek Nation having a present population of two hundred or more shall, and all others may, be surveyed, laid out, and appraised under the provisions of an act of Congress entitled "An act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and one, and for other purposes," approved May thirty-first, nineteen hundred, which said provisions are as follows:

"That the Secretary of the Interior is hereby authorized, under rules and regulations to be prescribed by him, to survey, lay out, and plat into town lots, streets, alleys and parks the sites of such towns and villages in the Choctaw, Chickasaw, Creek, and Cherokee nations, as may at that time have a population of two hundred or more, in such manner as will best subserve the then present needs and the reasonable prospective growth of such towns. The work of surveying, laying out, and platting such town sites shall be done by competent surveyors, who shall prepare five copies of the plat of each town site, which, when the survey is approved by the Secretary of the Interior, shall be filed as follows: One in the office of the Commissioner of Indian Affairs, one with the principal chief of the nation, one with the Clerk of the court within the territorial jurisdiction of which the town is located, one with the Commission to the Five Civilized Tribes, and one with

the town authorities, if there be such. Where in his judgment the best interests of the public service require, the Secretary of the Interior may secure the surveying, laying out, and platting of town sites in any of said nations by contract.

"Hereafter the work of the respective town-site commissions provided for in the agreement with the Choctaw and Chickasaw tribes ratified in section twenty-nine of the act of June twenty-eighth, eighteen hundred and ninety-eight, entitled 'An act for the protection of the people of the Indian Territory, and for other purposes,' shall begin as to any town site immediately upon the approval of the survey by the Secretary of the Interior, and not before.

"The Secretary of the Interior may, in his discretion, appoint a town-site commission consisting of three members for each of the Creek and Cherokee nations, at least one of whom shall be a citizen of the tribe and shall be appointed upon the nomination of the principal chief of the tribe. Each commission, under the supervision of the Secretary of the Interior, shall appraise and sell for the benefit of the tribe the town lots in the nation for which it is appointed, acting in conformity with the provisions of any then existing act of Congress or agreement with the tribe approved by Congress. The agreement of any two members of the commission as to the true value of any lot shall, constitute a determination thereof, subject to the approval of the Secretary of the Interior, and if no two members are able to agree the matter shall be determined by such Secretary.

"Where in his judgment the public interests will be thereby subserved, the Secretary of the Interior may appoint in the Choctaw, Chickasaw, Creek, or Cherokee Nation a separate town-site commission for any town, in which event as to that town such local commission may exercise the same authority and perform the same duties which would otherwise devolve upon the commission for

that nation. Every such local commission shall be appointed in the manner provided in the act approved June twenty-eighth, eighteen hundred and ninety-eight, entitled 'An act for the protection of the people of the Indian Territory.'

"The Secretary of the Interior, where in his judgment the public interests will be thereby subserved, may permit the authorities of any town in any of said nations, at the expense of the town, to survey, lay out, and plat the site thereof, subject to his supervision and approval, as in other instances.

"As soon as the plat of any town site is approved, the proper commission shall, with all reasonable dispatch and within a limited time, to be prescribed by the Secretary of the Interior, proceed to make the appraisement of the lots and improvements, if any, thereon, and after the approval thereof by the Secretary of the Interior, shall, under the supervision of such Secretary, proceed to the disposition and sale of the lots in conformity with any then existing act of Congress or agreement with the tribe approved by Congress, and if the proper commission shall not complete such appraisement and sale within the time limited by the Secretary of the Interior, they shall receive no pay for such additional time as may be taken by them, unless the Secretary of the Interior for good cause shown shall expressly direct otherwise.

"The Secretary of the Interior may, for good cause, remove any member of any town-site commission, tribal or local, in any of said nations, and may fill the vacancy thereby made or any vacancy otherwise occurring in like manner as the place was originally filled.

"It shall not be required that the town-site limits established in the course of the platting and disposing of town lots and the corporate limits of the town, if incorporated, shall be identical or coextensive, but such town-site limits and corporate limits shall be so established as

to best subserve the then present needs and the reasonable prospective growth of the town, as the same shall appear at the times when such limits are respectively established: Provided further, That the exterior limits of all town sites shall be designated and fixed at the earliest practicable time under rules and regulations prescribed by the Secretary of the Interior.

"Upon the recommendation of the Commission to the Five Civilized Tribes the Secretary of the Interior is hereby authorized at any time before allotment to set aside and reserve from allotment any lands in the Choctaw, Chickasaw, Creek, or Cherokee nations, not exceeding one hundred and sixty acres in any one tract, at such stations as are or shall be established in conformity with law on the line of any railroad which shall be constructed or be in process of construction in or through either of said nations prior to the allotment of the lands therein, and this irrespective of the population of such town site at the time. Such town sites shall be surveyed, laid out, and platted, and the lands therein disposed of for the benefit of the tribe in the manner herein prescribed for other town sites: Provided further, That whenever any tract of land shall be set aside as herein provided which is occupied by a member of the tribe, such occupant shall be fully compensated for his improvements thereon under such rules and regulations as may be prescribed by the Secretary of the Interior: Provided, That hereafter the Secretary of the Interior may, whenever the chief executive or principal chief of said nation fails or refuses to appoint a town-site commissioner for any town or to fill any vacancy caused by the neglect or refusal of the town-site commissioner appointed by the chief executive or principal chief of said nation to qualify or act, in his discretion, appoint a commissioner to fill the vacancy thus created."

Capital Townsite Co. v. Fox, 6 I. T. 223, 90 S. W. 614.  
Eldred v. Okmulgee Loan & Trust Co., 22 Okla. 742, 98 Pac. 929.  
Sharp v. Lancaster, 23 Okla. 349, 100 Pac. 578.  
Ross v. Stewart, 25 Okla. 611, 106 Pac. 870.  
Fawcett v. Hill, 29 Okla. 461, 118 Pac. 132.  
Cochran v. Hocker, 124 Pac. 953.  
Buster v. Wright, 135 Fed. 947.  
Stancliff v. Fox, 90 S. W. 614, 152 Fed. 697.

**Townsites—Rights of Occupants of Town-Lots.**

II. Any person in rightful possession of any town lot having improvements thereon, other than temporary buildings, fencing, and tillage, shall have the right to purchase such lot by paying one-half of the appraised value thereof, but if he shall fail within sixty days to purchase such lot and make the first payment thereon, as herein provided, the lot and improvements shall be sold at public auction to the highest bidder, under direction of the appraisal commission, at a price not less than their appraised value, and the purchaser shall pay the purchase price to the owner of the improvements, less the appraised value of the lot.

Brennan v. Shanks, 24 Okla. 563, 103 Pac. 705.  
Leak v. Joslin, 20 Okla. 200, 94 Pac. 518.  
Fawcett v. Hill, 29 Okla. 461, 118 Pac. 132.  
Kelman v. Kennedy, 31 Okla. 61, 119 Pac. 1000.

**Townsites—Right of Occupant.**

12. Any person having the right of occupancy of a residence or business lot, or both, in any town, whether improved or not, and owning no other lot or land therein, shall have the right to purchase such lot by paying one-half of the appraised value thereof.

Fawcett v. Hill, 29 Okla. 461, 118 Pac. 132.  
Buster v. Wright, 135 Fed. 947.  
U. S. v. Rea-Reed Mill & Elevator Co., 171 Fed. 501.

**Townsites—Right of Occupant.**

13. Any person holding lands within a town occupied by him as a home, also any person who had at the time of sign-

ing this agreement purchased any lot, tract, or parcel of land from any person in legal possession at the time, shall have the right to purchase the lot embraced in same by paying one-half of the appraised value thereof, not, however, exceeding four acres.

Fawcett v. Hill, 29 Okla. 461, 118 Pac. 132.

Kelman v. Kennedy, 31 Okla. 61, 119 Pac. 1000.

**Townsites—Sale of Unimproved Lots.**

14. All town lots not having thereon improvements, other than temporary buildings, fencing, and tillage, the sale or disposition of which is not herein otherwise specifically provided for, shall be sold within twelve months after their appraisalment, under direction of the Secretary of the Interior, after due advertisement, at public auction to the highest bidder at not less than their appraised value.

Any person having the right occupancy of lands in any town which has been or may be laid out into town lots, to be sold at public auction as above, shall have the right to purchase one-fourth of all the lots into which such lands may have been divided at two-thirds of their appraised value.

**Townsites—Appraisalment and Sale of Lots.**

15. When the appraisalment of any town lot is made, upon which any person has improvements as aforesaid, said appraisalment commission shall notify him of the amount of said appraisalment, and he shall, within sixty days thereafter, make payment of ten per centum of the amount due for the lot, as herein provided, and four months thereafter he shall pay fifteen per centum additional and the remainder of the purchase money in three equal annual installments, without interest.

Any person who may purchase an unimproved lot shall proceed to make payment for same in such time and manner as herein provided for the payment of sums due on improved lots, and if in any case any amount be not paid when due, it shall thereafter bear interest at the rate of ten per centum per an-

num until paid. The purchaser may in any case at any time make full payment for any town lot.

Kelman v. Kennedy, 31 Okla. 61, 119 Pac. 1000.

U. S. v. Rea-Reed Mill & Elevator Co., 171 Fed. 501.

**Townsites—Lots Exempt from Forced Sale.**

16. All town lots purchased by citizens in accordance with the provisions of this agreement shall be free from incumbrance by any debt contracted prior to date of his deed therefor, except for improvements thereon.

Buster v. Wright, 135 Fed. 947.

**Townsites—Lots Exempt from Taxation.**

17. No taxes shall be assessed by any town government against any town lot remaining unsold, but taxes may be assessed against any town lot sold as herein provided, and the same shall constitute a lien upon the interest of the purchaser therein after any payment thereon has been made by him, and if forfeiture of any lot be made all taxes assessed against such lot shall be paid out of any money paid thereon by the purchaser.

Eldred v. Okmulgee Loan & Trust Co., 22 Okla. 742, 98 Pac. 929.

**Cemeteries.**

18. The surveyors may select and locate a cemetery within suitable distance from each town, to embrace such number of acres as may be deemed necessary for such purpose, and the appraisalment commission shall appraise the same at not less than twenty dollars per acre, and the town may purchase the land by paying the appraised value thereof; and if any citizen have improvements thereon, other than fencing and tillage, they shall be appraised by said commission and paid for by the town. The town authorities shall dispose of the lots in such cemetery at reasonable prices, in suitable sizes for burial purposes, and the proceeds thereof shall be applied to the general improvement of the property.

**Public Buildings—Purchase of Land for.**

19. The United States may purchase, in any town in the Creek Nation, suitable land for court-houses, jails, and other necessary public buildings for its use, by paying the appraised value thereof, the same to be selected under the direction of the department for whose use such buildings are to be erected; and if any person have improvements thereon, other than temporary buildings, fencing, and tillage, the same shall be appraised and paid for by the United States.

**Schools May Purchase Land Occupied by Them.**

20. Henry Kendall College, Nazareth Institute, and Spaulding Institute, in Muskogee, may purchase the parcels of land occupied by them, or which may have been laid out for their use and so designated upon the plat of said town, at one-half of their appraised value, upon conditions herein provided; and all other schools and institutions of learning located in incorporated towns in the Creek Nation may, in like manner, purchase the lots or parcels of land occupied by them.

**Churches—Conveyance of Lots to.**

21. All town lots or parts of lots, not exceeding fifty by one hundred and fifty feet in size, upon which church houses and parsonages have been erected, and which are occupied as such at the time of appraisalment, shall be properly conveyed to the churches to which such improvements belong gratuitously, and if such churches have other adjoining lots inclosed, actually necessary for their use, they may purchase the same by paying one-half the appraised value thereof.

**Survey of Particular Towns.**

22. The towns of Clarksville, Coweta, Gibson Station, and Mounds may be surveyed and laid out in town lots and necessary streets and alleys and platted as other towns, each to embrace such amount of land as may be deemed necessary, not exceeding one hundred and sixty acres for either, and in manner not to include or interfere with the allotment of any cit-

## ORIGINAL CREEK TREATY.

izen selected prior to the date of this agreement, which s  
may be made in manner provided for other towns; and  
appraisement of the town lots of said towns may be made by  
any committee appointed for either of the other towns herein-  
before named, and the lots in said towns may be disposed of  
in like manner and on the same conditions and terms as those  
of other towns. All of such work may be done under the direc-  
tion of and subject to the approval of the Secretary of the  
Interior.

### TITLES.

#### **Deeds for Allotments—Execution—Approval—Acceptance.**

23. Immediately after the ratification of this agreement by Congress and the tribe, the Secretary of the Interior shall furnish the principal chief with blank deeds necessary for all conveyances herein provided for, and the principal chief shall thereupon proceed to execute in due form and deliver to each citizen who has selected or may hereafter select his allotment, which is not contested, a deed conveying to him all right, title, and interest of the Creek Nation and of all other citizens in and to the lands embraced in his allotment certificate, and such other lands as may have been selected by him for equalization of his allotment.

The principal chief shall, in like manner and with like effect, execute and deliver to proper parties deeds of conveyance in all other cases herein provided for. All lands or town lots to be conveyed to any one person shall, so far as practicable, be included in one deed, and all deeds shall be executed free of charge.

All conveyances shall be approved by the Secretary of the Interior, which shall serve as a relinquishment to the grantee of all the right, title, and interest of the United States in and to the lands embraced in his deed.

Any allottee accepting such deed shall be deemed to assent to the allotment and conveyance of all the lands of the tribe, as provided herein, and as a relinquishment of all his right, title,

and interest in and to the same, except in the proceeds of lands reserved from allotment.

The acceptance of deeds of minors and incompetents, by persons authorized to select their allotments for them, shall be deemed sufficient to bind such minors and incompetents to allotment and conveyance of all other lands of the tribe, as provided herein.

The transfer of the title of the Creek tribe to individual allottees and to other persons, as provided in this agreement, shall not inure to the benefit of any railroad company, nor vest in any railroad company any right, title, or interest in or to any of the lands in the Creek Nation.

All deeds when so executed and approved shall be filed in the office of the Dawes Commission, and there recorded without expense to the grantee, and such records shall have like effect as other public records. .

Barnett v. Way, 29 Okla. 780, 119 Pac. 418.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602.

McWilliams Inv. Co. v. Livingston, 22 Okla. 884, 98 Pac. 914.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

#### RESERVATIONS.

##### **Reservations from Allotment.**

24. The following lands shall be reserved from the general allotment herein provided for:

(a) All lands herein set apart for town sites.

(b) All lands to which, at the date of the ratification of this agreement, any railroad company may, under any treaty or act of Congress, have a vested right for right of way, depots, station grounds, water stations, stock yards or similar uses connected with the maintenance and operation of the railroad.

(c) Forty acres for the Eufaula High School.

(d) Forty acres for the Wealaka School.

- (e) Forty acres for the Newyaka Boarding School.
- (f) Forty acres for the Wetumka Boarding School.
- (g) Forty acres for the Euchee Boarding School.
- (h) Forty acres for the Coweta Boarding School.
- (i) Forty acres for the Creek Orphan Home.
- (j) Forty acres for the Tallahassee Colored Boarding School.
- (k) Forty acres for the Pecan Creek Colored Boarding School.
- (l) Forty acres for colored Creek Orphan Home.
- (m) All lands selected for town cemeteries, as herein provided.
- (n) All lands occupied by the University established by the American Baptist Home Mission Society, and located near the town of Muskogee, to the amount of forty acres, which shall be appraised, excluding improvements thereon, and said university shall have the right to purchase the same by paying one-half the appraised value thereof, on terms and conditions herein provided. All improvements made by said university on lands in excess of said forty acres shall be appraised and the value thereof paid to it by the person to whom such lands may be allotted.
- (o) One acre each for the six established Creek court-houses, with the improvements thereon.
- (p) One acre each for all churches and schools outside of towns now regularly used as such.

All reservations under the provisions of this agreement except as otherwise provided herein, when not needed for the purposes for which they are at present used, shall be sold at public auction to the highest bidder, to citizens only, under directions of the Secretary of the Interior.

Garrett v. American Baptist Home Mission Society, 29 Okla. 272, 116 Pac. 921.

United States v. Ft. Smith & W. R. Co., 195 Fed. 211.

## MUNICIPAL CORPORATIONS.

**Municipalities—Power to Issue Bonds.**

25. Authority is hereby conferred upon municipal corporations in the Creek Nation, with the approval of the Secretary of the Interior, to issue bonds and borrow money thereon for sanitary purposes, and for the construction of sewers, lighting plants, waterworks, and school houses, subject to all the provisions of laws of the United States in force in the organized Territories of the United States in reference to municipal indebtedness and issuance of bonds for public purposes; and said provisions of law are hereby put in force in said nation and made applicable to the cities and towns therein the same as if specially enacted in reference thereto.

## CLAIMS.

**Claims to be Submitted to United States Senate.**

26. All claims of whatsoever nature, including the "Loyal Creek Claim" under article four of the treaty of eighteen hundred and sixty-six, and the "Self-emigration claim" under article twelve of the treaty of eighteen hundred and thirty-two, which the tribe or any individual thereof may have against the United States, or any other claim arising under the treaty of eighteen hundred and sixty-six, or any claim which the United States may have against said tribe, shall be submitted to the Senate of the United States for determination; and within two years from the ratification of this agreement the Senate shall make final determination thereof; and in the event that any sums are awarded the said tribe, or any citizen thereof, provisions shall be made for immediate payment of same.

Of those claims the "Loyal Creek claim," for what they suffered because of their loyalty to the United States Government during the civil war, long delayed, is so urgent in its character that the parties to this agreement express the hope that it may receive consideration and be determined at the earliest practicable moment.

Any other claim which the Creek Nation may have against the United States may be prosecuted in the Court of Claims of the United States, with right of appeal to the Supreme Court; and jurisdiction to try and determine such claim is hereby conferred upon said courts.

#### FUNDS OF THE TRIBE.

##### **Tribal Funds.**

27. All treaty funds of the tribe shall hereafter be capitalized for the purpose of equalizing allotments and for other purposes provided in this agreement.

##### **Rolls of Citizenship—Additions to Rolls—Allotments to Heirs.**

28. No person, except as herein provided, shall be added to the rolls of citizenship of said tribe after the date of this agreement, and no person whomsoever shall be added to said rolls after the ratification of this agreement.

All citizens who were living on the first day of April, eighteen hundred and ninety-nine, entitled to be enrolled under section twenty-one of the act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight, entitled "An act for the protection of the people of the Indian Territory, and for other purposes," shall be placed upon the rolls to be made by said Commission under said act of Congress, and if any such citizen has died since that time, or may hereafter die, before receiving his allotment of lands and distributive share of all the funds of the tribe, the lands and money to which he would be entitled, if living, shall descend to his heirs according to the laws of descent and distribution of the Creek Nation, and be allotted and distributed to them accordingly.

All children born to citizens so entitled to enrollment, up to and including the first day of July, nineteen hundred, and then living, shall be placed on the rolls made by said Commission; and if any such child die after said date, the lands and moneys to which it would be entitled, if living, shall descend to its heirs according to the laws of descent and distribution of

the Creek Nation, and be allotted and distributed to them accordingly.

The rolls so made by said Commission, when approved by the Secretary of the Interior, shall be the final rolls of citizenship of said tribe, upon which the allotment of all lands and the distribution of all moneys and other property of the tribe shall be made and to no other persons.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 93 Pac. 641.

Irving v. Diamond, 23 Okla. 325, 100 Pac. 557.

Bruner v. Sanders, 26 Okla. 673, 110 Pac. 730.

Lamb v. Baker, 27 Okla. 739, 117 Pac. 189.

Hooks v. Kennard, 28 Okla. 457, 114 Pac. 744.

Barnett v. Way, 29 Okla. 780, 119 Pac. 418.

Groom v. Wright, 30 Okla. 652, 121 Pac. 215.

Scott v. Jacobs, 31 Okla. 109.

Morley v. Fewel, 32 Okla. 452, 122 Pac. 700.

Divine v. Harmon, 30 Okla. 820, 121 Pac. 219.

Checote v. Hardridge, 123 Pac. 846.

Brady v. Sizemore, 124 Pac. 615, 33 Okla. 169.

Shellenbarger v. Fewel, 124 Pac. 617.

Reynolds v. Fewel, 124 Pac. 623.

Scott v. Jacobs, 126 Pac. 780.

Bilby v. Brown, 126 Pac. 1024.

Ground v. Dingman, 127 Pac. 1078, 33 Okla. 760.

Parkinson v. Skelton, 128 Pac. 131, 33 Okla. 813.

Rentie v. McCoy, 128 Pac. 244.

Shulthis v. McDougal, 162 Fed. 331.

Brann v. Bell, 192 Fed. 427.

Armstrong v. Wood, 195 Fed. 137.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

United States v. Jacobs, 195 Fed. 707.

Reed v. Welty, 197 Fed. 419.

Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.

Shulthis v. McDougal, 225 U. S. 561, 56 L. Ed. 1205.

And see

U. S. v. LaRoque, 198 Fed. 645.

### **Rolls of Citizenship—Additional Enrollments.**

29. Said Commission shall have authority to enroll as Creek citizens certain full-blood Creek Indians now residing

## ORIGINAL CREEK TREATY.

in the Cherokee Nation, and also certain full-blood Creek dians now residing in the Creek Nation who have recently moved there from the State of Texas, and families of full-blood Creeks who now reside in Texas, and such other recognized citizens found on the Creek rolls as might, by reason of nonresidence, be excluded from enrollment by section twenty-one of said act of Congress approved June twenty-eight, eighteen hundred and ninety-eight: Provided, That such non-residents shall, in good faith, remove to the Creek Nation before said Commission shall complete the rolls of Creek citizens as aforesaid.

### MISCELLANEOUS.

#### **Deferred Payments—Lien Reserved.**

30. All deferred payments, under provisions of this agreement, shall constitute a lien in favor of the tribe on the property for which the debt was contracted, and if at the expiration of two years from the date of payment of the fifteen per centum aforesaid, default in any annual payment has been made, the lien for the payment of all purchase money remaining unpaid may be enforced in the United States court within the jurisdiction of which the town is located in the same manner as vendor's liens are enforced; such suit being brought in the name of the principal chief, for the benefit of the tribe.

#### **Payments to Tribe—How Made.**

31. All moneys to be paid to the tribe under any of the provisions of this agreement shall be paid, under the direction of the Secretary of the Interior, into the Treasury of the United States to the credit of the tribe, and an itemized report thereof shall be made monthly to the Secretary of the Interior and to the principal chief.

U. S. v. Rea-Reed Mill & Elevator Co., 171 Fed. 501.

#### **Tribal Funds—How Disbursed.**

32. All funds of the tribe, and all moneys accruing under the provisions of this agreement, when needed for the purposes

of equalizing allotments or for any other purposes herein prescribed, shall be paid out under the direction of the Secretary of the Interior; and when required for per capita payments, if any, shall be paid out directly to each individual by a bonded officer of the United States, under direction of the Secretary of the Interior, without unnecessary delay.

#### **Consent of Tribe to Disbursements.**

33. No funds belonging to said tribe shall hereafter be used or paid out for any purposes by any officer of the United States without consent of the tribe, expressly given through its national council, except as herein provided.

#### **Expenses of Surveys.**

34. The United States shall pay all expenses incident to the survey, platting, and disposition of town lots, and of allotments of lands made under the provisions of this agreement, except where the town authorities have been or may be duly authorized to survey and plat their respective towns at the expense of such town.

U. S. v. Rea-Reed Mill & Elevator Co., 171 Fed. 501.

#### **Parents Guardians of Children.**

35. Parents shall be the natural guardians of their children, and shall act for them as such unless a guardian shall have been appointed by a court having jurisdiction; and parents so acting shall not be required to give bond as guardians unless by order of such court, but they, and all other persons having charge of lands, moneys, and other property belonging to minors and incompetents, shall be required to make proper accounting therefor in the Court having jurisdiction thereof in manner deemed necessary for the preservation of such estates.

Indian Land & Trust Co. v. Shoenfelt, 5 I. T. 41, 79 S. W. 134.

Capps v. Hensley, 23 Okla. 311, 100 Pac. 515.

Beck v. Jackson, 23 Okla. 812, 101 Pac. 1109.

**Allotments to Seminoles in Creek Nation.**

36. All Seminole citizens who have heretofore settled and made homes upon lands belonging to the Creeks may there take, for themselves and their families, such allotments as they would be entitled to take of Seminole lands, and all Creek citizens who have heretofore settled and made homes upon lands belonging to Seminoles may there take, for themselves and their families, allotments of one hundred and sixty acres each, and if the citizens of one tribe thus receive a greater number of acres than the citizens of the other, the excess shall be paid for by such tribe, at a price to be agreed upon by the principal chiefs of the two tribes, and if they fail to agree, the price shall be fixed by the Indian agent, but the citizenship of persons so taking allotments shall in no wise be affected thereby.

Titles shall be conveyed to Seminoles selecting allotments of Creek lands in manner herein provided for conveyance of Creek allotments, and titles shall be conveyed to Creeks selecting allotments of Seminole lands in manner provided in the Seminole agreement dated December sixteenth, eighteen hundred and ninety-seven, for conveyance of Seminole allotments: Provided, That deeds shall be executed to allottees immediately after selection of allotment is made.

This provision shall not take effect until after it shall have been separately and specifically approved by the Creek national council, and by the Seminole general council; and if not approved by either, it shall fail altogether, and be eliminated from this agreement without impairing any other of its provisions.

**Leases of Allotments Permitted.**

37. Creek citizens may rent their allotments, when selected, for a term not exceeding one year, and after receiving title thereto without restriction, if adjoining allottees are not injured thereby, and cattle grazed thereon shall not be liable to any tribal tax; but when cattle are introduced into the Creek

Nation and grazed on lands not selected by citizens, the Secretary of the Interior is authorized to collect from the owners thereof a reasonable grazing tax for the benefit of the tribe; and section twenty-one hundred and seventeen, Revised Statutes of the United States, shall not hereafter apply to Creek lands.

Muskogee Land Co. v. Mullins, 7 I. T. 189, 104 S. W. 586.

Eldred v. Okmulgee Loan & Trust Co., 22 Okla. 742, 98 Pac. 929.

Groom v. Wright, 30 Okla. 652, 121 Pac. 219.

Moore v. Sawyer, 167 Fed. 826.

#### **Sale of Timber.**

38. After any citizen has selected his allotment he may dispose of any timber thereon, but if he dispose of such timber, or any part of same, he shall not thereafter select other lands in lieu thereof, and his allotment shall be appraised as if in condition when selected.

No timber shall be taken from lands not so selected, and disposed of, without payment of reasonable royalty thereon, under contract to be prescribed by the Secretary of the Interior.

#### **No Permit Tax from Non-Citizens.**

39. No non-citizen renting lands from a citizen for agricultural purposes, as provided by law, whether such lands have been selected as an allotment or not, shall be required to pay any permit tax.

Buster v. Wright, 135 Fed. 947.

#### **Schools—Creek School Fund, Use of.**

40. The Creek school fund shall be used, under direction of the Secretary of the Interior, for the education of Creek citizens, and the Creek schools shall be conducted under rules and regulations prescribed by him, under direct supervision of the Creek school superintendent and a supervisor appointed by the Secretary, and under Creek laws, subject to such modifications as the Secretary of the Interior may deem necessary

to make the schools most effective and to produce the best possible results.

All teachers shall be examined by or under direction of said superintendent and supervisor, and competent teachers and other persons to be engaged in and about the schools with good moral character only shall be employed, but where all qualifications are equal preference shall be given to citizens in such employment.

All moneys for running the schools shall be appropriated by the Creek national council, not exceeding the amount of the Creek school fund, seventy-six thousand four hundred and sixty-eight dollars and forty cents; but if it fail or refuse to make the necessary appropriations the Secretary of the Interior may direct the use of a sufficient amount of the school funds to pay all expenses necessary to the efficient conduct of the schools, strict account thereof to be rendered to him and to the principal chief.

All accounts for expenditures in running the schools shall be examined and approved by said superintendent and supervisor, and also by the general superintendent of Indian schools, in Indian Territory, before payment thereof is made.

If the superintendent and supervisor fail to agree upon any matter under their direction or control, it shall be decided by said general superintendent, subject to appeal to the Secretary of the Interior; but his decision shall govern until reversed by the Secretary.

**Section 13 of "Original Curtis Act" Inapplicable—Section 14 Applicable.**

41. The provisions of section thirteen of the act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight, entitled "An act for the protection of the people of the Indian Territory, and for other purposes," shall not apply to or in any manner affect the lands or other property of said tribe, or be in force in the Creek Nation, and no act of Congress or treaty provision inconsistent with this agree-

ment shall be in force in said nation, except section fourteen of said last-mentioned act, which shall continue in force as if this agreement had not been made.

**Tribal Acts to be Approved by President.**

42. No act, ordinance, or resolution of the national council of the Creek Nation in any manner affecting the lands of the tribe, or of individuals after allotment, or the moneys or other property of the tribe, or of the citizens thereof, except appropriations for the necessary incidental and salaried expenses of the Creek government as herein limited, shall be of any validity until approved by the President of the United States. When any such act, ordinance, or resolution shall be passed by said council and approved by the principal chief, a true and correct copy thereof, duly certified, shall be immediately transmitted to the President, who shall, within thirty days after received by him, approve or disapprove the same. If disapproved, it shall be so indorsed and returned to the principal chief; if approved, the approval shall be indorsed thereon, and it shall be published in at least two newspapers having a bona fide circulation in the Creek Nation.

**Intoxicants Prohibited.**

43. The United States agrees to maintain strict laws in said nation against the introduction, sale, barter, or giving away of liquors or intoxicants of any kind whatsoever.

United States Express Co. v. Friedman, 191 Fed. 673.

In re Webb, 225 U. S. 663, 56 L. Ed. 1248.

**Existing Treaties Not Affected.**

44. This agreement shall in no wise affect the provisions of existing treaties between the United States and said tribe except so far as inconsistent therewith.

**General Authority Granted to Secretary of Interior.**

45. All things necessary to carrying into effect the provisions of this agreement, not otherwise herein specifically pro-

vided for, shall be done under authority and direction of the Secretary of the Interior.

Capital Townsite Co. v. Fox, 6 I. T. 223, 90 S. W. 614.

**Tribal Government to Cease March 4, 1906.**

46. The tribal government of the Creek Nation shall not continue longer than March fourth, nineteen hundred and six, subject to such further legislation as Congress may deem proper.

**Creek Courts Not Restored.**

47. Nothing contained in this agreement shall be construed to revive or re-establish the Creek courts, which have been abolished by former acts of Congress.

ORIGINAL CREEK TREATY.  
FURTHER ANNOTATIONS.

SUPPLEMENTAL CREEK TREATY.

Approved by Act of Congress June 30, 1902, and Ratified by the Creek Nation July 26, 1902; Effective by Proclamation of the President of the United States August 8, 1902.

(32 Stat. L., 500.)

AN ACT TO RATIFY AND CONFIRM A SUPPLEMENTAL AGREEMENT WITH THE CREEK TRIBE OF INDIANS, AND FOR OTHER PURPOSES.

**Preamble—Agreement to be Ratified by Creek Council.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the following supplemental agreement, submitted by certain commissioners to the Creek tribe of Indians, as herein amended, is hereby ratified and confirmed on the part of the United States, and the same shall be of full force and effect if ratified by the Creek tribal council on or before the first day of September, nineteen hundred and two, which said supplemental agreement is as follows:

This agreement by and between the United States, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Tams Bixby, Thomas B. Needles, and Clifton R. Breckenridge, duly appointed and authorized thereunto, and the Muskogee (or Creek) tribe of Indians, in Indian Territory, entered into in behalf of the said tribe by Pleasant Porter, principal chief, Roley McIntosh, Thomas W. Perryman, Amos McIntosh, and David M. Hodge, commissioners duly appointed and authorized thereunto, witnesseth, that in consideration of the mutual undertakings herein contained, it is agreed as follows:

*Baker v. Hammett*, 23 Okla. 480, 100 Pac. 1114.

DEFINITIONS.

**Definition of Terms.**

The words "Creek" and "Muskogee" as used in this agreement shall be deemed synonymous, and the words "nation"

and "tribe" shall each be deemed to refer to the Muskogee Nation or Muskogee tribe of Indians in Indian Territory. The words "principal chief" shall be deemed to refer to the principal chief of the Muskogee Nation. The words "citizen" or "citizens" shall be deemed to refer to a member or members of the Muskogee tribe or nation of Indians. The word "Commissioner" shall be deemed to refer to the United States Commission to the Five Civilized Tribes.

Lamb v. Baker, 27 Okla. 739, 117 Pac. 189.

#### ALLOTMENT OF LANDS.

##### Allotment of Lands—Appraisements.

2. Section 2 of the agreement ratified by act of Congress approved March, 1901 (31 Stat. L., 861), is amended and as so amended is re-enacted to read as follows:

All lands belonging to the Creek tribe of Indians in Indian Territory, except town sites and lands reserved for Creek Schools and churches, railroads, and town cemeteries, in accordance with the provisions of the act of Congress approved March 1, 1901 (31 Stat. L., 861), shall be appraised at not to exceed \$6.50 per acre, excluding only lawful improvements on lands in actual cultivation.

Such appraisal shall be made, under the direction and supervision of the Commission to the Five Civilized Tribes, by such number of committees with necessary assistance as may be deemed necessary to expedite the work, one member of each committee to be appointed by the principal chief. Said commission shall have authority to revise and adjust the work of said committees; and if the members of any committee fail to agree as to the value of any tract of land, the value thereof shall be fixed by said Commission. The appraisal so made shall be submitted to the Secretary of the Interior for approval.

##### Amendment of Original Creek Agreement.

3. Paragraph 2 of section 3 of the agreement ratified by

said act of Congress approved March 1, 1901, is amended and as so amended is re-enacted to read as follows:

If any citizen select lands the appraised value of which is \$6.50 per acre, he shall not receive any further distribution of property or funds of the tribe until all other citizens have received lands and moneys equal in value to his allotment.

**Jurisdiction of Commission—Exclusive as to Allotments.**

4. Exclusive jurisdiction is hereby conferred upon the Commission to the Five Civilized tribes to determine, under the direction of the Secretary of the Interior, all controversies arising between citizens as to their right to select certain tracts of land.

*Williams v. First National Bank*, 20 Okla. 279, 95 Pac. 457.

**Erroneous Selections—Cancellation of Certificates.**

5. Where it is shown to the satisfaction of said Commission that it was the intention of a citizen to select lands which include his home and improvements, but that through error and mistake he had selected land which did not include said home and improvements, said Commission is authorized to cancel said selection and the certificate of selection or allotment embracing said lands, and permit said citizen to make a new selection including said home and improvements; and should said land including said home and improvements have been selected by any other citizen of said nation, the citizen owning said home and improvements shall be permitted to file, within ninety days from the ratification of this agreement, a contest against the citizen having previously selected the same, and shall not be prejudiced therein by reason of lapse of time or any provision of law or rules and regulations to the contrary.

**DESCENT AND DISTRIBUTION.**

**Repeal—Arkansas Law Effective—Non-Citizens Excluded, When.**

6. The provisions of the act of Congress approved March 1, 1901 (31 Stat. L., 861), in so far as they provide for de-

scent and distribution according to the laws of the Creek Nation, are hereby repealed, and the descent and distribution of land and money provided for by said act shall be in accordance with chapter 49 of Mansfield's Digest of the Statutes of Arkansas now in force in Indian Territory: Provided, That only citizens of the Creek Nation, male and female, and their Creek descendants shall inherit lands of the Cheek Nation: And provided further, That if there be no person of Creek citizenship to take the descent and distribution of said estate then the inheritance shall go to non-citizen heirs in the order named in said chapter 49.

Hawkins v. Stevens, 21 Okla. 849, 97 Pac. 567.

Irving v. Diamond, 23 Okla. 325, 100 Pac. 557.

Lamb v. Baker, 27 Okla. 739, 117 Pac. 189.

Hughes Land Co. v. Bailey, 30 Okla. 194, 120 Pac. 290.

Skelton v. Dill, 30 Okla. 278; 119 Pac. 267.

Brady v. Sizemore, 124 Pac. 615, 33 Okla. 169.

Shellenbarger v. Fewel, 124 Pac. 617.

Rentie v. McCoy, 128 Pac. 244.

Shulthis v. McDougal, 162 Fed. 331, 170 Fed. 529.

Brann v. Bell, 192 Fed. 427.

Armstrong v. Wood, 195 Fed. 137.

Shulthis v. McDougal, 225 U. S. 561, 56 L. Ed. 1205.

Washington v. Miller, 129 Pac. 58.

#### ROLLS OF CITIZENSHIP.

##### **Additional Enrollments—New Born Creeks.**

7. All children born to those citizens who are entitled to enrollment as provided by the act of Congress approved March 1, 1901 (31 Stat. L., 861), subsequent to July 1, 1900, and up to and including May 25, 1901, and living upon the latter date, shall be placed on the rolls made by said Commission. And if any such child has died since May 25, 1901, or may hereafter die before receiving his allotment of lands and distributive share of the funds of the tribe, the lands and moneys to which he would be entitled if living shall descend to his heirs as herein provided and be allotted and distributed to them accordingly.

Lamb v. Baker, 27 Okla. 739, 117 Pac. 189.  
Hooks v. Kennard, 28 Okla. 457, 114 Pac. 744.  
Rentie v. McCoy, 128 Pac. 244.  
Shulthis v. McDougal, 162 Fed. 331, 170 Fed. 529.  
Shulthis v. McDougal, 225 U. S. 561, 56 L. Ed. 1205.

#### **Additional Enrollments—Children Living May 25, 1901.**

8. All children who have not heretofore been listed for enrollment living May 25, 1901, born to citizens whose names appear upon the authenticated rolls of 1890 or upon the authenticated rolls of 1895, and entitled to enrollment as provided by the act of Congress approved March 1, 1901 (31 Stat. L., 861), shall be placed on the rolls made by said Commission. And if any such child has died since May 25, 1901, or may hereafter die before receiving his allotment of lands and distributive share of the funds of the tribe, the lands and moneys to which he would be entitled if living shall descend to his heirs as herein provided and be allotted and distributed to them accordingly.

Hooks v. Kennard, 28 Okla. 457, 114 Pac. 744.  
Skelton v. Dill, 30 Okla. 278, 119 Pac. 267.  
Rentie v. McCoy, 128 Pac. 244.

#### **Supplemental Roll of Citizens to be Made.**

9. If the rolls of citizenship provided for by the act of Congress approved March 1, 1901 (31 Stat. L., 861), shall have been completed by said commission prior to the ratification of this agreement, the names of children entitled to enrollment under the provisions of sections 7 and 8 hereof shall be placed upon a supplemental roll of citizens of the Creek Nation, and said supplemental roll, when approved by the Secretary of the Interior, shall in all respects be held to be a part of the final rolls of citizenship of said tribe: Provided, That the Dawes Commission be, and is hereby, authorized to add the following persons to the Creek roll: Nar-wal-le-pe-se, Mary Washington, Walter Washington, and Willie Washington, who

are Creek Indians, but whose names were left off the roll through neglect on their part.

*Hooks v. Kennard*, 28 Okla. 457, 114 Pac. 744.

#### ROADS.

##### **Roads to be Established—Damages.**

10. Public highways or roads 3 rods in width, being one and one-half rods on each side of the section line, may be established along all section lines without any compensation being paid therefor; and all allottees, purchasers, and others shall take the title to such lands subject to this provision. And public highways or roads may be established elsewhere whenever necessary for the public good, the actual value of the land taken elsewhere than along section lines to be determined under the direction of the Secretary of the Interior while the tribal government continues, and to be paid by the Creek Nation during that time; and if buildings or other improvements are damaged in consequence of the establishment of such public highways or roads, whether along section lines or elsewhere, such damages, during the continuance of the tribal government, shall be determined and paid in the same manner.

*Mills v. Glasscock*, 26 Okla. 123, 110 Pac. 377.

##### **Townsites—Compensation to Citizens.**

11. In all instances of the establishment of town sites in accordance with the provisions of the act of Congress approved May 31, 1900 (31 Stat. L., 231), or those of section 10 of the agreement ratified by act of Congress approved March 1, 1901 (31 Stat. L., 861), authorizing the Secretary of the Interior, upon the recommendation of the Commission to the Five Civilized Tribes, at any time before allotment, to set aside and reserve from allotment any lands in the Creek Nation not exceeding 160 acres in any one tract, at such stations as are or shall be established in conformity with law on the line of any railroad which shall be constructed, or be in process of con-

struction, in or through said nation prior to the allotment of lands therein, any citizen who shall have previously selected such town site, or any portion thereof, for his allotment, or who shall have been by reason of improvements therein entitled to select the same for his allotment, shall be paid by the Creek Nation the full value of his improvements thereon at the time of the establishment of the town site, under rules and regulations to be prescribed by the Secretary of the Interior: Provided, however, That such citizens may purchase any of said lands in accordance with the provisions of the act of March 1, 1901 (31 Stat. L., 861): And provided further, That the lands which may hereafter be set aside and reserved for town sites upon recommendation of the Dawes Commission as herein provided shall embrace such acreage as may be necessary for the present needs and reasonable prospective growth of such town sites, and not to exceed 640 acres for each town site, and 10 per cent of the net proceeds arising from the sale of that portion of the land within the town site so selected by him, or which he was so entitled to select; and this shall be in addition to his right to receive from other lands an allotment of 160 acres.

#### CEMETERIES.

##### **Desecrating Graves Prohibited.**

12. A cemetery other than a town cemetery included within the boundaries of an allotment shall not be desecrated by tillage or otherwise, but no interment shall be made therein except with the consent of the allottee, and any person desecrating by tillage or otherwise a grave or graves in a cemetery included within the boundaries of an allotment shall be guilty of a misdemeanor, and upon conviction be punished as provided in section 567 of Mansfield's Digest of the Statutes of Arkansas.

##### **Sale of Cemetery Lots.**

13. Whenever the town-site surveyors of any town in the Creek Nation shall have selected and located a cemetery, as

provided in section 18 of the act of Congress approved March 1, 1901 (31 Stat. L., 861) the town authorities shall not be authorized to dispose of lots in such cemetery until payment shall have been made to the Creek Nation for land used for said cemetery as provided in said act of Congress, and if the town authorities fail or refuse to make payment as aforesaid within one year of the approval of the plat of said cemetery by the Secretary of the Interior, the land so reserved shall revert to the Creek Nation and be subject to allotment. And for lands heretofore or hereafter designated as parks upon any plat or any town site, the town shall make payment into the Treasury of the United States to the credit of the Creek Nation within one year at the rate of \$20 per acre, and if such payment be not made within that time the lands so designated as a park shall be platted into lots and sold as other town lots.

#### MISCELLANEOUS.

##### **Per Capita Payments.**

14. All funds of the Creek Nation not needed for equalization of allotments, including the Creek school fund, shall be paid out under direction of the Secretary of the Interior per capita to the citizens of the Creek Nation on the dissolution of the Creek tribal government.

##### **Reservations for Court-House Lands Rescinded.**

15. The provisions of section 24 of the act of Congress approved March 1, 1901 (31 Stat. L., 861), for the reservation of land for the six established Creek court-houses is hereby repealed.

##### **Restrictions on Alienation—Selections for Minors, Etc.—Descent of Homesteads.**

16. Lands allotted to citizens shall not in any manner whatever, or at any time be encumbered, take, or sold to secure or satisfy any debt or obligation nor be alienated by the allottee or his heirs before the expiration of five years from the date of the approval of this supplemental agreement, except with

the approval of the Secretary of the Interior. Each citizen shall select from his allotment forty acres of land, or a quarter of a quarter section, as a homestead, which shall be and remain nontaxable, inalienable, and free from any incumbrance whatever for twenty-one years from the date of the deed therefor, and a separate deed shall be issued to each allottee for his homestead, in which this condition shall appear.

Selections of homesteads for minors, prisoners, convicts, incompetents and aged and infirm persons, who can not select for themselves, may be made in the manner provided for the selection of their allotments, and if for any reason such selection be not made for any citizen it shall be the duty of said Commission to make selection for him. The homestead of each citizen shall remain, after the death of the allottee, for the use and support of children born to him after May 25, 1901, but if he have no such issue then he may dispose of his homestead by will, free from the limitation herein imposed, and if this be not done the land embraced in his homestead shall descend to his heirs, free from such limitation, according to the laws of descent herein otherwise prescribed. Any agreement or conveyance of any kind or character violative of any of the provisions of this paragraph shall be absolutely void and not susceptible of ratification in any manner, and no rule of estoppel shall ever prevent the assertion of its invalidity.

Alfrey v. Colbert, 7 I. T. 338, 104 S. W. 638, 168 Fed. 231.

Harris v. Hardridge, 7 I. T. 532, 104 S. W. 828, 166 Fed. 109.

Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602.

In re Brown's Estate, 22 Okla. 216, 97 Pac. 613.

Western Investment Co. v. Kistler, 22 Okla. 222, 97 Pac. 588.

International Land Co. v. Marshall, 22 Okla. 693, 98 Pac. 951.

Eldred v. Okmulgee Loan & Trust Co., 22 Okla. 742, 98 Pac. 929.

McWilliams Investment Co. v. Livingston, 22 Okla. 884, 98 Pac. 914.

Sharp v. Lancaster, 23 Okla. 349, 100 Pac. 578.

Baker v. Hammett, 23 Okla. 480, 100 Pac. 1114.

Blakemore v. Johnson, 24 Okla. 544, 103 Pac. 554.

Bragdon v. McShea, 26 Okla. 35, 107 Pac. 916.

Jefferson v. Winkler, 26 Okla. 653, 110 Pac. 755.  
 Simmons v. Whittington, 27 Okla. 356, 112 Pac. 1018.  
 Barnes v. Stonebraker, 28 Okla. 75, 113 Pac. 903.  
 Harper v. Kelly, 29 Okla. 809, 120 Pac. 293.  
 The 30,000 Land Suits, 199 Fed. 811.  
 Taylor v. Brown, 147 U. S. 639, 37 L. Ed. 313.  
 Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.  
 Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.  
 English v. Richardson, 224 U. S. 680, 56 L. Ed. 949.  
 Stevens v. Elliott, 30 Okla. 41, 118 Pac. 407.  
 Skelton v. Dill, 30 Okla. 278, 119 Pac. 267.  
 Groom v. Wright, 30 Okla. 652, 121 Pac. 215.  
 In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.  
 Parkinson v. Skelton, 128 Pac. 131, 33 Okla. 813.  
 In re Washington's Estate, 128 Pac. 1079.  
 Rentie v. McCoy, 128 Pac. 244.  
 Moore v. Sawyer, 167 Fed. 826.  
 United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
 United States v. Schock, 187 Fed. 862.  
 United States v. Jacobs, 195 Fed. 707.  
 Reed v. Welty, 197 Fed. 419.

#### Restrictions on Lease by Citizens.

17. Section 37 of the agreement ratified by said act of March 1, 1901, is amended, and as so amended is re-enacted to read as follows:

"Creek citizens may rent their allotments, for strictly nonmineral purposes, for a term not to exceed one year for grazing purposes only and for a period not to exceed five years for agricultural purposes, but without any stipulation or obligation to renew the same. Such leases for a period longer than one year for grazing purposes and for a period longer than five years for agricultural purposes, and leases for mineral purposes may also be made with the approval of the Secretary of the Interior, and not otherwise. Any agreement or lease of any kind or character violative of this paragraph shall be absolutely void and not susceptible of ratification in any manner, and no rule of estoppel shall ever prevent the asser-

tion of its invalidity. Cattle grazed upon leased allotments shall not be liable to any tribal tax, but when cattle are introduced into the Creek Nation and grazed on lands not selected for allotment by citizens, the Secretary of the Interior shall collect from the owners thereof a reasonable grazing tax for the benefit of the tribe, and section 2117 of the Revised Statutes of the United States shall not hereafter apply to Creek lands."

Blackburn v. Muskogee Land Co., 6 I. T. 232, 91 S. W. 31.

Muskogee Land Co. v. Mullins, 7 I. T. 189, 104 S. W. 586, 165 Fed. 179.

Muskogee Development Co. v. Green, 22 Okla. 237, 97 Pac. 619.

Whitman v. Lehmer, 22 Okla. 627, 98 Pac. 351.

Williams v. Williams, 22 Okla. 672, 98 Pac. 909.

International Land Co. v. Marshall, 22 Okla. 693, 98 Pac. 951.

Eldred v. Okmulgee Loan & Trust Co., 22 Okla. 742, 98 Pac. 929.

Blakemore v. Johnson, 24 Okla. 544, 103 Pac. 554.

Groom v. Wright, 30 Okla. 652, 121 Pac. 215.

Chapman v. Siler, 30 Okla. 714, 120 Pac. 608.

Davis v. Selby Oil & Gas Co., 128 Pac. 1083.

Morrison v. Burnette, 154 Fed. 617.

Turner v. Seeps, 167 Fed. 646, 179 Fed. 74.

Shulthis v. McDougal, 162 Fed. 331, 170 Fed. 529.

See also

U. S. v. Abrams, 194 Fed. 82.

U. S. v. Noble, 197 Fed. 292.

U. S. v. Wright, 197 Fed. 297.

#### **Permits to Graze Cattle—Regulations.**

18. When cattle are introduced into the Creek Nation to be grazed upon either lands not selected for allotment or upon lands allotted or selected for allotment the owner thereof, or the party or parties so introducing the same, shall first obtain a permit from the United States Indian agent, Union Agency, authorizing the introduction of such cattle. The application for said permit shall state the number of cattle to be introduced, together with a description of the same, and shall specify the lands upon which said cattle are to be grazed, and whether or not said lands have been selected for allotment.

Cattle so introduced and all other live stock owned or controlled by noncitizens of the nation shall be kept upon inclosed lands, and if any such cattle or other live stock trespass upon lands allotted to or selected for allotment by any citizen of said nation, the owner thereof shall, for the first trespass, make reparation to the party injured for the true value of the damages he may have sustained, and for every trespass thereafter double damages, to be recovered with costs, whether the land upon which trespass is made is inclosed or not.

Any person who shall introduce any cattle into the Creek Nation in violation of the provisions of this section shall be deemed guilty of a misdemeanor and punished by a fine of not less than \$100, and shall stand committed until such fine and costs are paid, such commitment not to exceed one day for every \$2 of said fine and costs; and every day said cattle are permitted to remain in said nation without a permit for their introduction having been obtained shall constitute a separate offense.

**Citizens to be Placed in Possession of Their Allotments.**

19. Section 8 of the agreement ratified by said act of March 1, 1901, is amended, and as so amended is reenacted to read as follows:

"The Secretary of the Interior shall, through the United States Indian agent in said Territory, immediately after the ratification of this agreement, put each citizen who has made selection of his allotment in unrestricted possession of his land and remove therefrom all persons objectionable to him; and when any citizen shall thereafter make selection of his allotment as herein provided and receive certificate therefor, he shall be immediately thereupon so placed in possession of his land, and during the continuance of the tribal government the Secretary of the Interior, through such Indian agent, shall protect the allottee in his right to possession against any and all

persons claiming under any lease, agreement, or conveyance not obtained in conformity to law."

Bodle v. Shoenfelt, 22 Okla. 94, 97 Pac. 556.

Indian Land & Trust Co. v. Fears, 22 Okla. 681, 98 Pac. 904.

Indian Land & Trust Co. v. Shoenfelt, 5 I. T. 41, 79 S. W. 134.

### **Repeal.**

20. This agreement is intended to modify and supplement the agreement ratified by said act of Congress approved March 1, 1901, and shall be held to repeal any provision in that agreement or in any prior agreement, treaty, or law in conflict herewith.

United States v. Shock, 187 Fed. 862.

Reed v. Welty, 197 Fed. 419.

### **Agreement to be Effective When Ratified.**

21. This agreement shall be binding upon the United States and the Creek Nation, and upon all persons affected thereby when it shall have been ratified by Congress and the Creek national council, and the fact of such ratification shall have been proclaimed as hereinafter provided.

Baker v. Hammett, 23 Okla. 480, 100 Pac. 1114.

### **Submission to Creek Council for Ratification.**

22. The principal chief, as soon as practicable after the ratification of this agreement by Congress, shall call an extra session of the Creek Nation council and submit this agreement, as ratified by Congress, to such council for its consideration, and if the agreement be ratified by the national council, as provided in the constitution of the tribe, the principal chief shall transmit to the President of the United States a certified copy of the act of the council ratifying the agreement, and thereupon the President shall issue his proclamation making public announcement of such ratification. Thenceforward all the provisions of this agreement shall have the force and effect of law.

Baker v. Hammett, 23 Okla. 480, 100 Pac. 1114.



FURTHER ANNOTATIONS.

## SEMINOLE AGREEMENT.

December 16, 1897.

Approved by Act of Congress July 1, 1898.

(30 Stat. L. 567.)

AN ACT TO RATIFY THE AGREEMENT BETWEEN  
THE DAWES COMMISSION AND THE SEMINOLE NATION  
OF INDIANS.**Preamble.**

Whereas an agreement was made by Henry L. Dawes, Tams Bixby, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Needles, the Commission of the United States to the Five Civilized Tribes, and Allison L. Aylesworth, secretary, John F. Brown, Okchan Harjo, William Cully, K. N. Kinkehee, Thomas West, Thomas Factor, Seminole Commission, A. J. Brown, secretary, on the part of the Seminole Nation of Indians, on December sixteenth, eighteen hundred and ninety-seven, as follows:

AGREEMENT BETWEEN THE UNITED STATES COMMISSIONERS TO NEGOTIATE WITH THE FIVE CIVILIZED TRIBES, AND THE COMMISSIONERS ON THE PART OF THE SEMINOLE NATION.

**Allotment of Lands—Restrictions on Alienation—Reservations—  
Patents—Courts.**

This agreement by and between the Government of the United States of the first part, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Tams Bixby, Frank C. Armstrong, Archibald S. McKennon, and Thomas B. Needles, duly appointed and authorized thereunto, and the government of the Seminole Nation in Indian Territory, of the second part, entered into on behalf of said government by its commission, duly appointed and authorized thereunto, viz., John F. Brown, Okchan Harjo, William Cully, K. N. Kinkehee, Thomas West, and Thomas Factor;

Witnesseth, That in consideration of the mutual undertakings herein contained, it is agreed as follows:

All lands belonging to the Seminole tribe of Indians shall be divided into three classes, designated as first, second, and third class; the first class to be appraised at five dollars, the second class at two dollars and fifty cents, and the third class at one dollar and twenty-five cents per acre, and the same shall be divided among the members of the tribe so that each shall have an equal share thereof in value, so far as may be, the location and fertility of the soil considered; giving to each the right to select his allotment so as to include any improvements thereon, owned by him at the time; and each allottee shall have the sole right of occupancy of the land so allotted to him, during the existence of the present tribal government, and until the members of said tribe shall become citizens of the United States. Such allotments shall be made under the direction and supervision of the Commission to the Five Civilized Tribes in connection with a representative appointed by the tribal government; and the chairman of said Commission shall execute and deliver to each allottee a certificate describing therein the land allotted to him.

All contracts for sale, disposition, or encumbrance of any part of any allotment made prior to date of patent shall be void.

Any allottee may lease his allotment for any period not exceeding six years, the contract therefor to be executed in triplicate upon printed blanks provided by the tribal government, and before the same shall become effective it shall be approved by the principal chief and a copy filed in the office of the clerk of the United States court at Wewoka.

No lease of any coal, mineral, coal oil, or natural gas within said nation shall be valid unless made with the tribal government, by and with the consent of the allottee and approved by the Secretary of the Interior.

Should there be discovered on any allotment any coal, mineral, coal oil, or natural gas, and the same should be

operated so as to produce royalty, one half of such royalty shall be paid to such allottee and the remaining half into the tribal treasury until extinguishment of tribal government, and the latter shall be used for the purpose of equalizing the value of allotments; and if the same be insufficient therefor, any other funds belonging to the tribe, upon extinguishment of tribal government, may be used for such purpose, so that each allotment may be made equal in value as aforesaid.

The town site of Wewoka shall be controlled and disposed of according to the provisions of an act of the general council of the Seminole Nation, approved April 23rd, 1897, relative thereto; and on extinguishment of the tribal government, deeds of conveyance shall issue to owners of lots as herein provided for allottees; and all lots remaining unsold at that time may be sold in such manner as may be prescribed by the Secretary of the Interior.

Five hundred thousand dollars (\$500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent school fund for the education of children of the members of said tribe, and shall be held by the United States at five per cent interest, or invested so as to produce such amount of interest, which shall be, after extinguishment of tribal government, applied by the Secretary of the Interior to the support of Mekasuky and Emahaka academies and the district schools of the Seminole people; and there shall be selected and excepted from allotment three hundred and twenty acres of land for each of said academies and eighty acres each for eight district schools in the Seminole country.

There shall also be excepted from allotment one-half acre for the use and occupancy of each of twenty-four churches, including those already existing and such others as may hereafter be established in the Seminole country, by and with consent of the general council of the nation; but should any part of same, at any time, cease to be used for church purposes, such part shall at once revert to the Seminole people and be added to the lands set apart for the use of said district schools.

One acre in each township shall be excepted from allotment and the same may be purchased by the United States, upon which to establish schools for the education of children of noncitizens when deemed expedient.

When the tribal government shall cease to exist the principal chief last elected by said tribe shall execute, under his hand and the seal of the nation, and deliver to each allottee a deed conveying to him all the right, title, and interest of the said nation and the members thereof in and to the lands so allotted to him, and the Secretary of the Interior shall approve such deed, and the same shall thereupon operate as relinquishment of the right, title, and interest of the United States in and to the land embraced in said conveyance, and as a guarantee by the United States of the title of said lands to the allottee; and the acceptance of such deed by the allottee shall be a relinquishment of his title to and interest in all other lands belonging to the tribe, except such as may have been excepted from allotment and held in common for other purposes. Each allottee shall designate one tract of forty acres, which shall, by the terms of the deed, be made inalienable and nontaxable as a homestead in perpetuity.

All moneys belonging to the Seminoles remaining after equalizing the value of allotments as herein provided and reserving said sum of five hundred thousand dollars for school fund shall be paid per capita to the members of said tribe in three equal installments, the first to be made as soon as convenient after allotment and extinguishment of tribal government, and the others at one and two years, respectively. Such payments shall be made by a person appointed by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements.

The loyal Seminole claim shall be submitted to the United States Senate, which shall make final determination of same, and, if sustained, shall provide for payment thereof within two years from date hereof.

There shall hereafter be held at the town of Wewoka, the present capital of the Seminole Nation, regular terms of the United States court, as at other points in the judicial district of which the Seminole Nation is a part.

The United States agrees to maintain strict laws in the Seminole country against the introduction, sale, barter, or giving away of intoxicants of any kind or quality.

This agreement shall in no wise affect the provisions of existing treaties between the Seminole Nation and the United States, except in so far as it is inconsistent therewith.

The United States courts now existing, or that may hereafter be created, in Indian Territory shall have exclusive jurisdiction of all controversies growing out of the title, ownership, occupation, or use of real estate owned by the Seminoles, and to try all persons charged with homicide, embezzlement, bribery, and embracery hereafter committed in the Seminole country, without reference to race or citizenship of the persons charged with such crime; and any citizen or officer of said nation charged with any such crime, if convicted, shall be punished as if he were a citizen or officer of the United States, and the courts of said nation shall retain all the jurisdiction which they now have, except as herein transferred to the courts of the United States.

When this agreement is ratified by the Seminole Nation and the United States, the same shall serve to repeal all the provisions of the act of Congress approved June seventh, eighteen hundred and ninety-seven, in any manner affecting the proceedings of the general council of the Seminole Nation.

It being known that the Seminole Reservation is insufficient for allotments for the use of the Seminole people, upon which they, as citizens, holding in severalty, may reasonably and adequately maintain their families, the United States will make effort to purchase from the Creek Nation, at one dollar and twenty-five cents per acre, two hundred thousand acres of land, immediately adjoining the eastern boundary of the Seminole Reservation and lying between the North Fork

and South Fork of the Canadian River, in trust for and to be conveyed by proper patent by the United States to the Seminole Indians, upon said sum of one dollar and twenty-five cents per acre being reimbursed to the United States by said Seminole Indians; the same to be allotted as herein provided for lands now owned by the Seminoles.

This agreement shall be binding on the United States when ratified by Congress and on the Seminole people when ratified by the general council of the Seminole Nation.

In witness whereof the said commissioners have hereunto affixed their names at Muskogee, Indian Territory, this sixteenth day of December, A. D. 1897.

Therefore,

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the same be, and is hereby, ratified and confirmed, and all laws and parts of laws inconsistent therewith are hereby repealed.

Godrey v. Iowa Land & Trust Co., 21 Okla. 293, 95 Pac. 792.

Stout v. Simpson, 124 Pac. 754.

U. S. Express Co. v. Friedman, 191 Fed. 673.

The 30,000 Land Suits, 199 Fed. 811.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

Deming Investment Co. v. U. S., 224 U. S. 471, 56 L. Ed. 847.

In re Webb, 225 U. S. 663, 56 L. Ed. 1248.

*Bellevue-Jarvis Seminole Co. Lincoln - Okla - 122 Pac 198*  
*Madsen v. Crump 53 Okla 728-157 Pac 713*  
*Campbell v. Madsen 248 U.S. 169 63 S. Ed. 197*  
*Stout v. Simpson 34 Okla 129*  
*Lula Seminole Co. 916 P. 64 Okla 200-166 Pac 1080*  
*Scott v. Crump 56 Okla 301-153 Pac 1134*  
*Mahany v. Calman 29 Okla 46-116 Pac 938*  
*U. S. v. Plav 253 Fed 1*  
*Smith v. Humphrey & Assoc 64 Okla 186-166 Pac 1094*  
*Rentis v. Rentis 70 Okla - 172 Pac 1083*  
*Dickinson v. Abbott 73 Okla 176 Pac 523*  
*Bailey v. Berra 81 Okla 285-198 Pac 323*  
*Washington v. Miller 34 Okla 259-129 Pac 58*  
*Thorne v. Corpe 47 Okla 781 150 Pac 701*  
*Corscher v. Chapman 89 Okla 121 215 Pac 760*  
*U. S. v. ... 241 Pac 794*

## SEMINOLE AGREEMENT.

Ratified by Act of Congress, Approved June 2, 1900.

(31 Stat. L. 250.)

AN ACT TO RATIFY AN AGREEMENT BETWEEN THE  
COMMISSION TO THE FIVE CIVILIZED TRIBES AND THE  
SEMINOLE TRIBE OF INDIANS.

**Enrollment of Citizens—Descent.**

Whereas an agreement was made by Henry L. Dawes, Tams Bixby, Archibald S. McKennon, and Thomas B. Needles, the commission of the United States to the Five Civilized Tribes, and John F. Brown and K. N. Kinkehee, commissioners on the part of the Seminole tribe of Indians, on the seventh day of October, eighteen hundred and ninety-nine, as follows:

“This agreement by and between the Government of the United States of the first part, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Tams Bixby, Archibald S. McKennon, and Thomas B. Needles, duly appointed and authorized thereunto, and the Seminole tribe of Indians, in Indian Territory, of the second part, entered into in behalf of said tribe by John F. Brown and K. N. Kinkehee, commissioners duly appointed and authorized thereunto, witnesseth:

“First. That the Commission to the Five Civilized Tribes, in making the rolls of Seminole citizens, pursuant to the Act of Congress approved June twenty-eight, eighteen hundred and ninety-eight, shall place on said rolls the names of all children born to Seminole citizens up to and including the thirty-first day of December, eighteen hundred and ninety-nine, and the names of all Seminole citizens then living; and the rolls so made, when approved by the Secretary of the Interior, as provided by said Act of Congress, shall constitute the final rolls of Seminole citizens, upon which the allotment of lands

and distribution of money and other property belonging to the Seminole Indians shall be made, and to no other persons.

Bruner v. Sanders, 26 Okla. 673, 110 Pac. 730.

"Second. If any member of the Seminole tribe of Indians shall die after the thirty-first day of December, eighteen hundred, and ninety-nine, the lands, money, and other property to which he would be entitled if living, shall descend to his heirs who are Seminole citizens, according to the laws of descent and distribution of the State of Arkansas, and be allotted and distributed to them accordingly: Provided, That in all cases where such property would descend to the parents under said laws the same shall first go to the mother instead of the father, and then to the brothers and sisters, and their heirs, instead of the father.

Bruner v. Sanders, 26 Okla. 673, 110 Pac. 730.

Stout v. Simpson, 124 Pac. 754.

Heliker-Jarvis Seminole Co. v. Lincoln, 126 Pac. 723, 33 Okla. 425.

"Third. This agreement to be ratified by the general council of the Seminole Nation and by the Congress of the United States.

"In witness whereof the said commissioners hereunto affix their names, at Muskogee, Indian Territory, this seventh day of October, eighteen hundred and ninety-nine.

(SIGNATURES)"

Therefore,

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the same be and is hereby ratified and confirmed, and all laws and parts of laws inconsistent therewith are hereby repealed.

## SUPPLEMENTAL CHOCTAW AND CHICKASAW TREATY.

Approved by Act of Congress July 1, 1902.

Ratified by the Choctaw and Chickasaw Nations, and Became Effective  
September 25, 1902.

(32 Stat. L. 641.)

AN ACT TO RATIFY AND CONFIRM AN AGREEMENT  
WITH THE CHOCTAW AND CHICKASAW TRIBES OF  
INDIANS, AND FOR OTHER PURPOSES.

**Preamble.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the following agreement, made by the Commission to the Five Civilized Tribes with the commissions representing the Choctaw and Chickasaw tribes of Indians on the twenty-first day of March, nineteen hundred and two, be, and the same is hereby, ratified and confirmed, to-wit:

AGREEMENT BETWEEN THE UNITED STATES  
AND THE CHOCTAWS AND CHICKASAWS.

This agreement, by and between the United States, entered into in its behalf by Henry L. Dawes, Tams Bixby, Thomas B. Needles, and Clifton R. Breckinridge, commissioners duly appointed and authorized thereunto, and the Choctaw and Chickasaw tribes of Indians in Indian Territory, respectively, entered into in behalf of such Choctaw and Chickasaw tribes by Gilbert W. Dukes, Green McCurtain, Thomas E. Sanguin, and Simon E. Lewis in behalf of the Choctaw tribe of Indians; and Douglas H. Johnston, Calvin J. Grant, Holmes Willis, Edward B. Johnson, and Benjamine H. Colbert in behalf of the Chickasaw tribe of Indians, commissioners duly appointed and authorized thereunto.

Witnesseth that, in consideration of the mutual undertakings herein contained, it is agreed as follows:

DEFINITIONS.

1. Wherever used in this agreement the words "nations" and "tribes" shall each be held to mean the Choctaw and Chickasaw nations or tribes of Indians in Indian Territory.

**Definitions.**

2. The words "chief executives" shall be held to mean the principal chief of the Choctaw Nation and the governor of the Chickasaw Nation.

**Definitions.**

3. The words "member" or members" and "citizen" or "citizens" shall be held to mean members or citizens of the Choctaw or Chickasaw tribe of Indians in Indian Territory, not including freedman.

Frame v. Bivens, 189 Fed. 785.

United States v. Dowden, 194 Fed. 475.

**Definitions.**

4. The term "Atoka agreement" shall be held to mean the agreement made by the Commission to the Five Civilized Tribes with the commissioners representing the Choctaw and Chickasaw tribes of Indians at Atoka, Indian Territory, and embodied in the act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight. (30 Stat., 495).

**Definitions.**

5. The word "minor" shall be held to mean males under the age of twenty-one years and females under the age of eighteen years.

**Definitions.**

6. The word "select" and its various modifications, as applied to allotments and homesteads, shall be held to mean the formal application at the land office, to be established by the Commission to the Five Civilized Tribes for the Choctaw and Chickasaw nations, for particular tracts of land.

**Definition of Terms.**

7. Every word in this agreement importing the masculine gender may extend and be applied to females as well as males, and the use of the plural may include also the singular, and vice versa.

**Definition of Terms.**

8. The terms "allotable lands" or "lands allottable" shall be deemed to mean all the lands of the Choctaw and Chickasaw tribes not herein reserved from allotment.

**APPRAISEMENT OF LANDS.****Appraisement of Lands.**

9. All lands belonging to the Choctaw and Chickasaw tribes in the Indian Territory, except such as are herein reserved from allotment, shall be appraised at their true value: Provided, That in determining such value consideration shall not be given to the location thereof, to any mineral deposits, or to any timber except such pine timber as may have been heretofore estimated by the Commission to the Five Civilized Tribes, and without reference to improvements which may be located thereon.

**Appraisement of Lands.**

10. The appraisement as herein provided shall be made by the Commission to the Five Civilized Tribes, and the Choctaw and Chickasaw tribes shall each have a representative, to be appointed by the respective executives, to cooperate with the said Commission.

**ALLOTMENT OF LANDS.****Allotment of Lands—Legal Subdivisions.**

11. There shall be allotted to each member of the Choctaw and Chickasaw tribes, as soon as practicable after the approval by the Secretary of the Interior of his enrollment as herein provided, land equal in value to three hundred and twenty acres of the average allotable land of the Choctaw and Chickasaw tribes.

saw nations, and to each Choctaw and Chickasaw freedman, as soon as practicable after the approval by the Secretary of the Interior of his enrollment, land equal in value to forty acres of the average allotable land of the Choctaw and Chickasaw nations; to conform, as nearly as may be, to the areas and boundaries established by the Government survey, which land may be selected by each allottee so as to include his improvements. For the purpose of making allotments and designating homesteads hereunder, the forty-acre or quarter-quarter subdivisions, established by the Government survey may be dealt with as if further subdivided into four equal parts in the usual manner, thus making the smallest legal division ten acres, or a quarter of a quarter of a quarter of a section.

Scroggins v. Oliver, 7 I. T. 740, 104 S. W. 1161.

Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.

Sorrels v. Jones, 26 Okla. 569, 110 Pac. 743.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

United States v. Dowden, 194 Fed. 475.

Choate v. Trapp, 224 U. S. 665, 56 L. Ed. 941.

#### **Homesteads—Restrictions on Alienation.**

12. Each member of said tribes shall, at the time of the selection of his allotment, designate as a homestead out of said allotment land equal in value to one hundred and sixty acres of the average allotable land of the Choctaw and Chickasaw nations, as nearly as may be, which shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of certificate of allotment, and separate certificate and patent shall issue for said homestead.

Hayes v. Barringer, 7 I. T. 697, 104 S. W. 937, 168 Fed. 221.

Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.

Keel v. Ingersol, 27 Okla. 117, 111 Pac. 214.

Redwine v. Ansley, 32 Okla. 317, 122 Pac. 679.

Stout v. Simpson, 124 Pac. 754.

Taylor v. Parker, 126 Pac. 573, 33 Okla. 199.

Rentie v. McCoy, 128 Pac. 244.

United States v. Allen, 171 Fed. 907, 179 Fed. 13.

United States v. Dowden, 194 Fed. 475.  
Reed v. Welty, 197 Fed. 419.  
The 30,000 Land Suits, 199 Fed. 811.  
Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.  
Choate v. Teapp, 224 U. S. 665, 56 L. Ed. 941.

#### **Allotments to Freedmen—Restrictions Upon Alienation.**

13. The allotment of each Choctaw and Chickasaw freedman shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of certificate of allotment.

Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.  
United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
United States v. Dowden, 194 Fed. 475.  
Reed v. Welty, 197 Fed. 419.  
The 30,000 Land Suits, 199 Fed. 811.  
Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.  
Choate v. Trapp, 224 U. S. 665, 56 L. Ed. 941.

#### **Sale of Unallotted Lands.**

14. When allotments as herein provided have been made to all citizens and freedmen, the residue of lands not herein reserved or otherwise disposed of, if any there be, shall be sold at public auction under rules and regulations and on terms to be prescribed by the Secretary of the Interior, and so much of the proceeds as may be necessary for equalizing allotments shall be used for that purpose, and the balance shall be paid into the Treasury of the United States to the credit of the Choctaws and Chickasaws and distributed per capita as other funds of the tribes.

Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.  
United States v. Dowden, 194 Fed. 475.

#### **Allotted Lands—Restrictions Upon Alienation.**

15. Lands allotted to members and freedmen shall not be affected or encumbered by any deed, debt, or obligation of any character contracted prior to the time at which said land

may be alienated under this act, nor shall said lands be sold except as herein provided.

Kelly v. Harper, 7 I. T. 541, 104 S. W. 829.  
 Sayer v. Brown, 7 I. T. 675, 104 S. W. 877.  
 Hayes v. Barringer, 7 I. T. 697, 104 S. W. 937, 168 Fed. 221.  
 Lewis v. Clements, 21 Okla. 167, 95 Pac. 769.  
 Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.  
 Keel v. Ingersol, 27 Okla. 117, 111 Pac. 214.  
 Simmons v. Whittington, 27 Okla. 356, 112 Pac. 1018.  
 Howard v. Farrar, 28 Okla. 420, 114 Pac. 695.  
 In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.  
 Williams v. Johnson, 32 Okla. 247, 122 Pac. 485.  
 Simmons v. Mullen, 122 Pac. 518, 33 Okla. 184.  
 Rogers v. Noel, 124 Pac. 976.  
 Taylor v. Parker, 126 Pac. 573, 33 Okla. 199.  
 Redwine v. Ansley, 32 Okla. 317, 122 Pac. 679.  
 United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
 Bettes v. Brower, 184 Fed. 342.  
 Frame v. Bivens, 189 Fed. 785.  
 United States v. Dowden, 194 Fed. 475.  
 Reed v. Welty, 197 Fed. 419.  
 Taylor v. Anderson, 197 Fed. 383.  
 The 30,000 Land Suite, 199 Fed. 811.  
 Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.  
 Choate v. Trapp, 224 U. S. 665, 56 L. Ed. 941.

#### **Surplus Allotments—Restrictions Upon Alienation.**

16. All lands allotted to the members of said tribes, except such land as is set aside to each for a homestead as herein provided, shall be alienable after issuance of patent as follows: One fourth in acreage in one year, one-fourth in acreage in three years, and the balance in five years; in each case from date of patent: Provided, That such land shall not be alienable by the allottee or his heirs at any time before the expiration of the Choctaw and Chickasaw tribal governments for less than its appraised value.

Hayes v. Barringer, 7 I. T. 697, 104 S. W. 937, 168 Fed. 221.  
 Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.  
 Williams v. Johnson, 32 Okla. 247, 122 Pac. 485.  
 Redwine v. Ansley, 32 Okla. 317, 122 Pac. 679.

Rogers v. Noel, 124 Pac. 976.  
Taylor v. Parker, 126 Pac. 573, 33 Okla. 199.  
United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
Frame v. Bivens, 189 Fed. 785.  
United States v. Dowden, 194 Fed. 475.  
Taylor v. Anderson, 197 Fed. 383.  
Reed v. Welty, 197 Fed. 419.  
The 30,000 Land Suits, 199 Fed. 811.  
Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.  
Choate v. Trapp, 224 U. S. 665, 56 L. Ed. 941.  
Bledsoe v. Wortman, 129 Pac. 841.

#### **Arbitrary Allotments by Commission.**

17. If, for any reason, an allotment should not be selected or a homestead designated by or on behalf of, any member or freedman, it shall be the duty of said Commission to make said selection and designation.

#### **Subdivisions of Lands.**

18. In the making of allotments and in the designation of homesteads for members of said tribes, under the provisions of this agreement, said Commission shall not be required to divide lands into tracts of less than the smallest legal subdivision provided for in paragraph eleven hereof.

#### **Excessive Holdings Prohibited—Penalty for.**

19. It shall be unlawful after ninety days after the date of the final ratification of this agreement for any member of the Choctaw or Chickasaw tribes to enclose or hold possession of in any manner, by himself or through another, directly or indirectly, more lands in value than that of three hundred and twenty acres of average allotable lands of the Choctaw and Chickasaw nations, as provided by the terms of this agreement, either for himself or for his wife, or for each of his minor children, if members of said tribes; and any member of said tribes found in such possession of lands, or having the same in any manner enclosed after the expiration of ninety days after the date of the final ratification of this agreement, shall be deemed guilty of a misdemeanor.

Gooding v. Watkins, 5 I. T. 578, 82 S. W. 913.

McLaughlin v. Ardmore Loan & Trust Co., 21 Okla. 173, 95 Pac. 779.

Combs v. Miller, 24 Okla. 576, 103 Pac. 590.

Cornelius v. Murray, 31 Okla. 174, 120 Pac. 653.

**Excessive Holdings by Freedmen—Penalty for.**

20. It shall be unlawful after ninety days after the date of the final ratification of this agreement for any Choctaw or Chickasaw freedman to enclose or hold possession of in any manner, by himself or through another, directly or indirectly, more than so much land as shall be equal in value to forty acres of the average allotable lands of the Choctaw and Chickasaw tribes as provided by the terms of this agreement, either for himself or for his wife, or for each of his minor children, if they be Choctaw or Chickasaw freedmen; and any freedmen found in such possession of lands, or having the same in any manner enclosed after the expiration of ninety days after the date of the final ratification of this agreement, shall be deemed guilty of a misdemeanor.

**Excessive Holdings—Punishment for.**

21. Any person convicted of violating any of the provisions of sections 19 and 20 of this agreement shall be punished by a fine not less than one hundred dollars, and shall stand committed until such fine and costs are paid (such commitment not to exceed one day for every two dollars of said fine and costs), and shall forfeit possession of any property in question, and each day on which such offense is committed or continues to exist, shall be deemed a separate offense. And the United States district attorneys for the districts in which said nations are situated, are required to see that the provisions of said sections are strictly enforced, and they shall immediately after the expiration of ninety days after the date of the final ratification of this agreement proceed to dispossess all persons of such excessive holdings of lands, and to prosecute them for so unlawfully holding the same. And the Commission to the

Five Civilized Tribes shall have authority to make investigation of all violations of sections 19 and 20 of this agreement, and make report thereon to the United States district attorneys.

*Combs v. Miller*, 24 Okla. 576, 103 Pac. 590.

**Allotments to Heirs of Deceased Citizens.**

22. If any person whose name appears upon the rolls, prepared as herein provided, shall have died subsequent to the ratification of this agreement and before receiving his allotment of land, the lands to which such person would have been entitled if living shall be allotted in his name, and shall, together with his proportionate share of other tribal property, descend to his heirs according to the laws of decent and distribution as provided in chapter forty-nine of Mansfield's Digest of the Statutes of Arkansas: Provided, That the allotment thus to be made shall be selected by a duly appointed administrator or executor. If, however, such administrator or executor be not duly and expeditiously appointed, or fails to act promptly when appointed, or for any other cause such selection be not so made within a reasonable and practicable time, the Commission to the Five Civilized Tribes shall designate the lands thus to be allotted.

*Hancock v. Mutual Trust Co.*, 24 Okla. 391, 103 Pac. 566.

*Sorrels v. Jones*, 26 Okla. 569, 110 Pac. 743.

*Bruner v. Sanders*, 26 Okla. 673, 110 Pac. 730.

*Hoteyabi v. Vaughn*, 32 Okla. 807, 124 Pac. 63.

*Lynch v. Harris*, 124 Pac. 50, 33 Okla. 23, 36.

*Stout v. Simpson*, 124 Pac. 754.

*Rentie v. McCoy*, 128 Pac. 244.

*Hayes v. Barringer*, 104 S. W. 937, 168 Fed. 221.

*United States v. Dowden*, 194 Fed. 475.

*Reed v. Welty*, 197 Fed. 419.

*The 30,000 Land Suits*, 199 Fed. 811.

*Mullen v. U. S.*, 224 U. S. 448, 56 L. Ed. 834.

**Allotment Certificates as Evidence of Title.**

23. Allotment certificates issued by the Commission to the Five Civilized Tribes shall be conclusive evidence of the right

of any allottee to the tract of land described therein; and the United States Indian agent at the Union Agency shall, upon the application of the allottee, place him in possession of his allotment, and shall remove therefrom all persons objectionable to such allottee, and the acts of the Indian agent hereunder shall not be controlled by the writ or process of any court.

*Sorrels v. Jones*, 26 Okla. 569, 110 Pac. 743.

*Denver W. & M. Ry. Co. v. Adkinson*, 28 Okla. 1, 119 Pac. 247.

*Frame v. Bivens*, 189 Fed. 785.

*United States v. Dowden*, 194 Fed. 475.

*Garfield v. Goldsby*, 211 U. S. 249, 52 L. Ed. 168.

*Ballinger v. Frost*, 216 U. S. 240, 54 L. Ed. 464.

#### **Jurisdiction of Commission.**

24. Exclusive jurisdiction is hereby conferred upon the Commission to the Five Civilized Tribes to determine, under the direction of the Secretary of the Interior, all matters relating to the allotment of land.

*Gooding v. Watkins*, 5 I. T. 578, 82 S. W. 913.

*Sorrels v. Jones*, 26 Okla. 569, 110 Pac. 743.

*Bowen v. Ledbetter*, 32 Okla. 513, 122 Pac. 131.

*Lynch v. Harris*, 124 Pac. 50, 33 Okla. 23, 36.

*United States v. Dowden*, 194 Fed. 475.

*Ballinger v. Frost*, 216 U. S. 240, 54 L. Ed. 464.

#### **EXCESSIVE HOLDINGS.**

##### **Excessive Holdings—Notice—Arbitrary Allotments.**

25. After the opening of a land office for allotment purposes in both the Choctaw and the Chickasaw nations any citizen or freedman of either of said nations may appear before the Commission to the Five Civilized Tribes at the land office in the nation in which his land is located and make application for his allotment and for allotments for members of his family and for other persons for whom he is lawfully authorized to apply for allotments, including homesteads, and after the expiration of ninety days following the opening of such land offices any such applicant may make allegation that the land or any part

of the land that he desires to have allotted is held by another citizen or person in excess of the amount of land to which said citizen or person is lawfully entitled, and that he desires to have said land allotted to him or members of his family as herein provided; and thereupon said Commission shall serve notice upon the person so alleged to be holding land in excess of the lawful amount to which he may be entitled, said notice to set forth the facts alleged and the name and post-office address of the person alleging the same, and the rights and consequences herein provided, and the person so alleged to be holding land contrary to law shall be allowed thirty days from the date of the service of said notice in which to appear at one of said land offices and to select his allotment and the allotments he may be lawfully authorized to select, including homestead; and if at the end of the thirty days last provided for the person upon whom said notice has been served has not selected his allotment and allotments as provided, then the Commission to the Five Civilized Tribes shall immediately make or reserve said allotments for the person or persons who have failed to act in accordance with the notice aforesaid, having due regard for the best interest of said allottees; and after such allotments have been made or reserved by said Commission, then all other lands held or claimed, or previously held or claimed by said person or persons, shall be deemed a part of the public domain of the Choctaw and Chickasaw nations and be subject to disposition as such: Provided, That any persons who have previously applied for any part of said lands shall have a prior right of allotment of the same in the order of their applications and as their lawful rights may appear.

If any citizen or freedman of the Choctaw and Chickasaw nations shall not have selected his allotment within twelve months after the date of the opening of said land offices in said nations, if not herein otherwise provided, and provided that twelve months shall have elapsed from the date of the approval of his enrollment by the Secretary of the Interior, then the Commission to the Five Civilized Tribes may immediately pro-

ceed to select an allotment, including a homestead for such person, said allotment and homestead to be selected as the Commission may deem for the best interest of said person, and the same shall be of the same force and effect as if such selection had been made by such citizen or freedman in person, and all lands held or claimed by persons for whom allotments have been selected by the Commission as provided, and in excess of the amount included in said allotments, shall be a part of the public domain of the Choctaw and Chickasaw nations and be subject to disposition as such.

*Sorrels v. Jones*, 26 Okla. 569, 110 Pac. 743.

*Cornelius v. Murray*, 31 Okla. 174, 120 Pac. 653.

#### RESERVATIONS.

##### **Townsites—Coal and Asphalt Lands—Schools.**

26. The following lands shall be reserved from the allotment of lands herein provided for:

(a) All lands set apart for town sites either by the terms of the Atoka agreement, the act of Congress of May 31, 1900 (31 Stats., 221), as herein assented to, or by the terms of this agreement.

(b) All lands to which, at the date of the final ratification of this agreement, any railroad company may under any treaty or act of Congress have a vested right for right of way, depots, station grounds, water stations, stock yards, or similar uses connected with the maintenance and operation of the railroad.

(c) The strip of land lying between the city of Fort Smith, Arkansas, and the Arkansas and Poteau rivers, extending up the said Poteau River to the mouth of Mill Creek.

(d) All lands which shall be segregated and reserved by the Secretary of the Interior on account of their coal or asphalt deposits, as hereinafter provided. And the lands selected by the Secretary of the Interior at and in the vicinity of Sulphur, in the Chickasaw Nation, under the cession of the United States hereunder made by said tribes.

- (e) One hundred and sixty acres for Hones' Academy.
  - (f) One hundred and sixty acres for Tuskahoma Female Seminary.
  - (g) One hundred and sixty acres for Wheelock Orphan Seminary.
  - (h) One hundred and sixty acres for Armstrong Orphan Academy.
  - (i) Five acres for capitol building of the Choctaw Nation.
  - (j) One hundred and sixty acres for Bloomfield Academy.
  - (k) One hundred and sixty acres for Lebanon Orphan Home.
  - (l) One hundred and sixty acres for Harley Institute.
  - (m) One hundred and sixty acres for Rock Academy.
  - (n) One hundred and sixty acres for Collins Institute.
  - (o) Five acres for the capitol building of the Chickasaw Nation.
  - (p) Eighty acres for J. S. Murrow.
  - (q) Eighty acres for H. R. Schermerhorn.
  - (r) Eighty acres for the widow of R. S. Bell.
  - (s) A reasonable amount of land, to be determined by the town-site commissioners, to include all tribal court-houses and jails and other tribal public buildings.
  - (t) Five acres for any cemetery located by the town-site commissioners prior to the date of the final ratification of this agreement.
  - (u) One acre for any church under the control of and used exclusively by the Choctaw or Chickasaw citizens at the date of the final ratification of this agreement.
  - (v) One acre each for all Choctaw or Chickasaw schools under the supervision of the authorities of the Choctaw or Chickasaw nations and officials of the United States.
- And the acre so reserved for any church or school in any quarter section of land shall be located when practicable in a corner of such quarter section lying adjacent to the section line thereof.

## ROLLS OF CITIZENSHIP.

**Rolls of Citizenship—In General.**

27. The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898 (30 Stats., 495). and the act of Congress approved May 31, 1900 (31 Stats., 221), except as herein otherwise provided: Provided, That no person claiming right to enrollment and allotment and distribution of tribal property, by virtue of a judgment of the United States court in the Indian Territory under the act of June 10, 1896 (29 Stats., 321), and which right is contested by legal proceedings instituted under the provisions of this agreement, shall be enrolled or receive allotment of lands or distribution of tribal property until his right thereto has been finally determined.

Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.

Sorrels v. Jones, 26 Okla. 569, 110 Pac. 743.

Fleming v. McCurtain, 215 U. S. 56, 54 L. Ed. 88.

**Persons Entitled to Enrollment.**

28. The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws.

Hancock v. Mutual Trust Co., 24 Okla. 391, 103 Pac. 566.

**Citizens of Other Tribes—Excluded.**

29. No person whose name appears upon the rolls made by the Commission to the Five Civilized Tribes as a citizen or freedman of any other tribe shall be enrolled as a citizen or freedman of the Choctaw or Chickasaw nations.

**Rolls of Citizenship—Approval by Secretary.**

30. For the purpose of expediting the enrollment of the Choctaw and Chickasaw citizens and the Choctaw and Chickasaw freedmen, the said Commission shall, from time to time, and as early as practicable, forward to the Secretary of the Interior lists upon which shall be placed names of those persons found by the Commission to be entitled to enrollment. The lists thus prepared, when approved by the Secretary of the Interior, shall constitute a part and parcel of the final rolls of citizens of the Choctaw and Chickasaw tribes and of Choctaw and Chickasaw freedmen, upon which allotment of land and distribution of other tribal property shall be made as herein provided. Lists shall be made up and forwarded when contests of whatever character shall have been determined, and when there shall have been submitted to and approved by the Secretary of the Interior lists embracing names of all those lawfully entitled to enrollment, the rolls shall be deemed complete. The rolls so prepared shall be made in quintuplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Choctaw Nation, one with the governor of the Chickasaw Nation, and one to remain with the Commission to the Five Civilized Tribes.

United States v. Dowden, 194 Fed. 475.

Garfield v. Goldsly, 211 U. S. 249, 52 L. Ed. 168.

**Citizenship Court—Creation of.**

31. It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in the Indian Territory, acting under the act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in such courts being given to each of said nations; and it being insisted by said nations that, in such proceedings, notice to each of said nations was indispensable, and it being claimed and insisted by said nations

that the proceedings in the United States courts in the Indian Territory, under the said act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such Commission, and should not have extended to a trial de novo of the question of citizenship; and it being desirable to finally determine these question, the two nations, jointly, or either of said nations acting separately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw or Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one, but not to both of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in the Indian Territory was wrongfully obtained as provided in the next section. In the event said citizenship judgments or decisions are annulled or vacated in the test suit hereinbe-

fore authorized, because of either or both of the irregularities claimed and insisted upon by said nations as aforesaid, then the files, papers, and proceedings in any citizenship case in which the judgment or decision is so annulled or vacated, shall, upon written application therefor, made within ninety days thereafter by any party thereto, who is thus deprived of a favorable judgment upon his claimed citizenship, be transferred and certified to said citizenship court by the Court having custody and control of such files, papers, and proceedings, and, upon the filing in such citizenship court of the files, papers and proceedings in any such citizenship case, accompanied by due proof that notice in writing of the transfer and certification thereof has been given to the chief executive officer of each of said nations, said citizenship case shall be docketed in said citizenship court, and such further proceedings shall be had therein in that court as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes, and as if no judgment or decision had been rendered therein.

*Dawes v. Cundiff*, 5 I. T. 47, 82 S. W. 228.

*Dawes v. Benson*, 5 I. T. 50, 82 S. W. 1141.

*Wallace v. Adams*, 6 I. T. 32, 88 S. W. 308, 143 Fed. 716.

*Garfield v. Goldsly*, 211 U. S. 249, 52 L. Ed. 168.

*Wallace v. Adams*, 204 U. S. 420, 51 L. Ed. 547.

#### **Citizenship Court—Jurisdiction—Appeals.**

32. Said citizenship court shall also have appellate jurisdiction over all judgments of the courts in Indian Territory rendered under said act of Congress of June tenth, eighteen hundred and ninety-six, admitting persons to citizenship or to enrollment as citizens in either of said nations. The right of appeal may be exercised by the said nations jointly or by either of them acting separately at any time within six months after this agreement is finally ratified. In the exercise of such appellate jurisdiction said citizenship court shall be authorized to consider, review, and revise all such judgments, both as to

findings of fact and conclusions of law, and may, wherever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy. And said court shall have power to make all needful rules and regulations prescribing the manner of taking and conducting said appeals and of taking additional evidence therein. Such citizenship court shall also have like appellate jurisdiction and authority over judgments rendered by such courts under the said act denying claims to citizenship or to enrollment as citizens in either of said nations. Such appeals shall be taken within the time hereinbefore specified and shall be taken, conducted, and disposed of in the same manner as appeals by the said nations, save that notice of appeals by citizenship claimants shall be served upon the chief executive officer of both nations: Provided, That paragraphs thirty-one and thirty-two, and thirty-three hereof shall go into effect immediately after the passage of this act by Congress.

*Dawes v. Cundiff*, 5 I. T. 47, 82 S. W. 228.

*Dawes v. Benson*, 5 I. T. 50, 82 S. W. 1141.

*Wallace v. Adams*, 6 I. T. 32, 88 S. W. 308, 143 Fed. 716, 204 U. S. 420, 51 L. Ed. 547.

#### **Citizenship Court—Powers—Procedure.**

33. A court is hereby created, to be known as the Choctaw and Chickasaw citizenship court, the existence of which shall terminate upon the final determination of the suits and proceedings named in the last two preceding sections, but in no event later than the thirty-first day of December, nineteen hundred and three. Said court shall have all authority and power necessary to the hearing and determination of the suits and proceedings so committed to its jurisdiction, including the authority to issue and enforce all requisite writs, process, and orders, and to prescribe rules and regulations for the transaction of its business. It shall also have the powers of a circuit

court of the United States in compelling the production of books, papers, and documents, the attendance of witnesses, and in punishing contempt. Except where herein otherwise expressly provided, the pleadings, practice, and proceedings in said court shall conform, as near as may be, to the pleadings, practice, and proceedings in equity causes in the circuit courts of the United States. The testimony shall be taken in court or before one of the judges, so far as practicable. Each judge shall be authorized to grant, in vacation or recess, interlocutory orders and to hear and dispose of interlocutory motions not affecting the substantial merits of the case. Said court shall have a chief judge and two associate judges, a clerk, a stenographer, who shall be deputy clerk, and a bailiff. The judges shall be appointed by the President, by and with the advice and consent of the Senate, and shall each receive a compensation of five thousand dollars per annum, and his necessary and actual traveling and personal expenses while engaged in the performance of his duties. The clerk, stenographer, and bailiff shall be appointed by the judges, or a majority of them, and shall receive the following yearly compensation: Clerk, two thousand four hundred dollars; Stenographer, twelve hundred dollars; bailiff, nine hundred dollars. The compensation of all these officers shall be paid by the United States in monthly installments. The moneys to pay said compensation are hereby appropriated, and there is also hereby appropriated the sum of five thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, to pay such contingent expenses of said court and its officers as to such Secretary may seem proper. Said court shall have a seal, shall sit at such place or places in the Choctaw and Chickasaw nations as the judges may designate, and shall hold public sessions, beginning the first Monday in each month, so far as may be practicable or necessary. Each judge and the clerk and deputy clerk shall be authorized to administer oaths. All writs and process issued by said court shall be served by the United

States marshal for the district in which the service is to be had. The fees for serving process and the fees of witnesses shall be paid by the party at whose instance such process is issued or such witnesses are subpoenaed, and the rate or amount of such fees shall be the same as is allowed in civil causes in the circuit court of the United States for the Western district of Arkansas. No fees shall be charged by the clerk or other officers of said Court. The clerk of the United States Court in Indian Territory, having custody and control of the files, papers, and proceedings in the original citizenship cases, shall receive a fee of two dollars and fifty cents for transferring and certifying to the citizenship court the files, papers, and proceedings in each case, without regard to the number of persons whose citizenship is involved therein, and said fee shall be paid by the person applying for such transfer and certification. The judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final. All expenses necessary to the proper conduct, on behalf of the nations, of the suits and proceedings provided for in this and the two preceding sections shall be incurred under the direction of the executives of the two nations, and the Secretary of the Interior is hereby authorized, upon certificate of said executives, to pay such expenses as in his judgment are reasonable and necessary out of any of the joint funds of said nations in the Treasury of the United States.

*Dawes v. Cundiff*, 5 I. T. 47, 82 S. W. 228.

*Dawes v. Benson*, 5 I. T. 50, 82 S. W. 1141.

*Wallace v. Adams*, 6 I. T. 32, 88 S. W. 308, 143 Fed. 716, 204 U. S. 420, 51 L. Ed. 547.

#### **Applications for Enrollment—Completion of Rolls.**

34. During the ninety days first following the date of the final ratification of this agreement the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly

known as "delinquents," and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw nations in accordance with the tribal laws, customs, and usages on or before the date of the passage of this act by Congress, and such infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement; but the application of no person whomsoever for enrollment shall be received after the expiration of the said ninety days: Provided, That nothing in this section shall apply to any person or persons making application for enrollment as Mississippi Choctaws, for whom provision has herein otherwise been made.

**Limitation of Enrollments and Allotments.**

35. No person whose name does not appear upon the rolls prepared as herein provided shall be entitled to in any manner participate in the distribution of the common property of the Choctaw and Chickasaw tribes, and those whose names appear thereon shall participate in the manner set forth in this agreement: Provided, That no allotment of land or other tribal property shall be made to any person, or to the heirs of any person, whose name is on the said rolls, and who died prior to the date of the final ratification of this agreement. The right of such person to any interest in the lands or other tribal property shall be deemed to have become extinguished and to have passed to the tribe in general upon his death before the date of the final ratification of this agreement, and any person or persons who may conceal the death of anyone on said rolls as aforesaid, for the purpose of profiting by the said concealment, and who shall knowingly receive any portion of any land or other tribal property, or of the proceeds so arising from any allotment prohibited by this section, shall be deemed guilty of a felony, and shall be proceeded against as may be provided in other cases of felony, and the penalty for this offense shall be confinement at hard labor for a period of not less than one year nor more than five years, and in addition

thereto a forfeiture to the Choctaw and Chickasaw nations of the lands, other tribal property, and proceeds so obtained.

Sorrels v. Jones, 28 Okla. 569, 110 Pac. 743.

#### CHICKASAW FREEDMEN.

##### **Rights of Chickasaw Freedmen.**

36. Authority is hereby conferred upon the Court of Claims to determine the existing controversy respecting the relations of the Chickasaw freedmen to the Chickasaw Nation and the rights of such freedmen in the lands of the Choctaw and Chickasaw nations under the third article of the treaty of eighteen hundred and sixty-six, between the United States and the Choctaw and Chickasaw nations, and under any and all laws subsequently enacted by the Chickasaw legislature or by Congress.

U. S. v. Choctaw Nation, 193 U. S. 120, 48 L. Ed. 640.

##### **Suit to Determine Rights of Chickasaw Freedmen.**

37. To that end the Attorney-General of the United States is hereby directed, on behalf of the United States, to file in said Court of Claims, within sixty days after this agreement becomes effective, a bill of interpleader against the Choctaw, and Chickasaw nations and the Chickasaw freedmen, setting forth the existing controversy between the Chickasaw Nation and the Chickasaw freedmen and praying that the defendants thereto be required to interplead and settle their respective rights in such suit.

U. S. v. Choctaw Nation, 193 U. S. 120, 48 L. Ed. 640.

##### **Procedure in Freedmen Suit.**

38. Service of process in the suit may be had on the Choctaw and Chickasaw nations, respectively, by serving upon the principal chief of the former and the governor of the latter a certified copy of the bill, with a notice of the time for answering the same, which shall not be less than thirty nor more than sixty days after such service, and may be had upon the

Chickasaw freedmen by serving upon each of three known and recognized Chickasaw freedmen a certified copy of the bill, with a like notice of the time for answering the same, and by publishing a notice of the commencement of the suit, setting forth the nature and prayer of the bill, with the time for answering the same, for a period of three weeks in at least two weekly newspapers having general circulation in the Chickasaw Nation.

**Chickasaw Freedmen Suit—Employment of Counsel.**

39. The Choctaw and Chickasaw nations, respectively, may in the manner prescribed in sections twenty-one hundred and three to twenty-one hundred and six, both inclusive, of the Revised Statutes, employ counsel to represent them in such suit and protect their interests therein; and the Secretary of the Interior shall employ competent counsel to represent the Chickasaw freedmen in said suit and to protect their interests therein; and the compensation of counsel so employed for the Chickasaw freedmen, including all costs of printing their briefs and other incidental expenses on their part, not exceeding six thousand dollars, shall be paid out of the Treasury of the United States upon certificate of the Secretary of the Interior setting forth the employment and the terms thereof, and stating that the required services have been duly rendered; and any party feeling aggrieved at the decree of the Court of Claims, or any part thereof, may, within sixty days after the rendition thereof, appeal to the Supreme Court, and in each of said courts the suit shall be advanced for hearing and decision at the earliest practicable time.

**Temporary Allotments to Chickasaw Freedmen.**

40. In the meantime the Commission to the Five Civilized Tribes shall make a roll of the Chickasaw freedmen and their descendants, as provided in the Atoka agreement, and shall make allotments to them as provided in this agreement, which said allotments shall be held by the said Chickasaw freedmen,

not as temporary allotments, but as final allotments, and in the event that it shall be finally determined in said suit that the Chickasaw freedmen are not, independently of this agreement, entitled to allotments in the Choctaw and Chickasaw lands, the Court of Claims shall render a decree in favor of the Choctaw and Chickasaw nations according to their respective interests, and against the United States, for the value of the lands so allotted to the Chickasaw freedmen as ascertained by the appraisal thereof made by the Commission to the Five Civilized Tribes for the purpose of allotment, which decree shall take the place of the said lands and shall be in full satisfaction of all claims by the Choctaw and Chickasaw nations against the United States or the said freedmen on account of the taking of the said lands for allotment to said freedmen: Provided, That nothing contained in this paragraph shall be construed to affect or change the existing status or rights of the two tribes as between themselves respecting the lands taken for allotment to freedmen, or the money, if any, recovered as compensation therefor, as aforesaid.

U. S. v. Choctaw Nation, 193 U. S. 120, 48 L. Ed. 640.

#### MISSISSIPPI CHOCTAWS.

##### **Mississippi Choctaws—Citizenship and Allotment.**

41. All persons duly identified by the Commission to the Five Civilized Tribes under the provisions of section 21 of the act of Congress approved June 28, 1898 (30 Stats., 495), as Mississippi Choctaws entitled to benefits under article 14 of the treaty between the United States and the Choctaw Nation concluded September 27, 1830, may, at any time within six months after the date of their identification as Mississippi Choctaws by the said Commission, make bona fide settlement within the Choctaw-Chickasaw country, and upon proof of such settlement to such Commission within one year after the date of their said identification as Mississippi Choctaws shall be enrolled by such Commission as Mississippi Choctaws en-

titled to allotment as herein provided for citizens of the tribes, subject to the special provisions herein provided as to Mississippi Choctaws, and said enrollment shall be final when approved by the Secretary of the Interior. The application of no person for identification as a Mississippi Choctaw shall be received by said Commission after six months subsequent to the date of the final ratification of this agreement, and in the disposition of such applications all full-blood Mississippi Choctaw Indians and the descendants of any Mississippi Choctaw Indians, whether of full or mixed blood, to receive a patent to land under the said fourteenth article of the said treaty of eighteen hundred and thirty who had not moved to and made bona fide settlement in the Choctaw-Chickasaw country prior to June twenty-eighth, eighteen hundred and ninety-eight, shall be deemed to be Mississippi Choctaws, entitled to benefits under article fourteen of the said treaty of September twenty-seventh, eighteen hundred and thirty, and to identification as such by said Commission, but this direction or provision shall be deemed to be only a rule of evidence and shall not be invoked by or operate to the advantage of any applicant who is not a Mississippi Choctaw of the full blood, or who is not the descendant of a Mississippi Choctaw who received a patent to land under said treaty, or who is otherwise barred from the right of citizenship in the Choctaw Nation, all of said Mississippi Choctaws so enrolled by said Commission shall be upon a separate roll.

**Mississippi Choctaws—Patents to.**

42. When any such Mississippi Choctaw shall have in good faith continuously resided upon the lands of the Choctaw and Chickasaw nations for a period of three years, including his residence thereon before and after such enrollment, he shall, upon the due proof of such continuous, bona fide residence, made in such manner and before such officer as may be designated by the Secretary of the Interior, receive a patent for his allotment, as provided in the Atoka agreement, and he shall

hold the lands allotted to him as provided in this agreement for citizens of the Choctaw and Chickasaw nations.

**Mississippi Choctaws—Enrollment of.**

43. Applications for enrollment as Mississippi Choctaws, and applications to have land set apart to them as such, must be made personally before the Commission to the Five Civilized Tribes. Fathers may apply for their minor children; and, if the father be dead, the mother may apply; husbands may apply for wives. Applications for orphans, insane persons, and persons of unsound mind may be made by duly appointed guardian or curator, and for aged and infirm persons and prisoners by agents duly authorized thereunto by power of attorney, in the discretion of said Commission.

**Mississippi Choctaws—Failure to Complete Residence.**

44. If within four years after such enrollment any such Mississippi Choctaw, or his heirs or representatives if he be dead, fails to make proof of such continuous bona fide residence for the period so prescribed, or up to the time of the death of such Mississippi Choctaw, in case of his death after enrollment, he, and his heirs and representatives if he be dead, shall be deemed to have acquired no interest in the lands set apart to him, and the same shall be sold at public auction for cash, under rules and regulations prescribed by the Secretary of the Interior, and the proceeds paid into the Treasury of the United States to the credit of the Choctaw and Chickasaw tribes, and distributed per capita with other funds of the tribes. Such lands shall not be sold for less than their appraised value. Upon payment of the full purchase price patent shall issue to the purchaser.

TOWN SITES.

**Townsites—Assent of Tribes.**

45. The Choctaw and Chickasaw tribes hereby assent to the act of Congress approved May 31, 1900 (31 Stats., 221),

in so far as it pertains to town sites in the Choctaw and Chickasaw nations, ratifying and confirming all acts of the Government of the United States thereunder, and consent to a continuance of the provisions of said act not in conflict with the terms of this agreement.

*Town of Hartshorne v. Town of Haileyville*, 24 Okla. 775, 104 Pac. 49.

*Ballinger v. Frost*, 216 U. S. 240, 54 L. Ed. 464.

#### **Townsites—Additional Acreage.**

46. As to those town sites heretofore set aside by the Secretary of the Interior on the recommendation of the Commission to the Five Civilized Tribes, as provided in said act of Congress of May 31, 1900, such additional acreage may be added thereto, in like manner as the original town site was set apart, as may be necessary for the present needs and reasonable prospective growth of said town sites, the total acreage not to exceed six hundred and forty acres for each town site.

#### **Townsites—Limit to Acreage.**

47. The lands which may hereafter be set aside and reserved for town sites upon the recommendation of the Commission to the Five Civilized Tribes, under the provisions of said act of May 31, 1900, shall embrace such acreage as may be necessary for the present needs and reasonable prospective growth of such town sites, not to exceed six hundred and forty acres for each town site.

#### **Townsites—Compensation for Improvements.**

48. Whenever any tract of land shall be set aside for town-site purposes, as provided in said act of May 31, 1900, or by the terms of this agreement, which is occupied by any member of the Choctaw or Chickasaw nations, such occupant shall be fully compensated for his improvements thereon, out of the funds of the tribes arising from the sale of town sites, under rules and regulations to be prescribed by the Secretary of the Interior, the value of such improvements to be determined by

a board of appraisers, one member of which shall be appointed by the Secretary of the Interior, one by the chief executive of the tribe in which the town site is located, and one by the occupant of the land, said board of appraisers to be paid such compensation for their services as may be determined by the Secretary of the Interior out of any appropriation for surveying, laying out, platting, and selling town sites.

**Townsites—Vacancies in Townsite Commissions.**

49. Whenever the chief executive of the Choctaw or Chickasaw Nation fails or refuses to appoint a town-site commissioner for any town, or to fill any vacancy caused by the neglect or refusal of the town-site commissioner appointed by the chief executive of the Choctaw or Chickasaw Nation to qualify or act, or otherwise, the Secretary of the Interior, in his discretion, may appoint a commissioner to fill the vacancy thus created.

**Additional Townsite Commissioners.**

50. There shall be appointed, in the manner provided in the Atoka agreement, such additional town-site commissions as the Secretary of the Interior may deem necessary, for the speedy disposal of all town sites in said nations: Provided, That the jurisdiction of said additional town-site commissions shall extend to such town sites only as shall be designated by the Secretary of the Interior.

**Patents to Town Lots.**

51. Upon the payment of the full amount of the purchase price of any lot in any town site in the Choctaw and Chickasaw nations, appraised and sold as herein provided, or sold as herein provided, the chief executives of said nations shall jointly execute, under their hands and the seals of the respective nations and deliver to the purchaser of the said lot a patent conveying to him all right, title, and interest of the Choctaw and Chickasaw tribes in and to said lot.

The 30,000 Land Suits, 199 Fed. 811.

**Patents to Town Lots.**

52. All town lots in any one town site to be conveyed to one person shall, as far as practicable, be included in one patent, and all patents shall be executed free of charge to the grantee.

**Towns of Less Than Two Hundred People.**

53. Such towns in the Choctaw and Chickasaw nations as may have a population of less than two hundred people, not otherwise provided for, and which in the judgment of the Secretary of the Interior should be set aside as town sites, shall have their limits defined not later than ninety days after the final ratification of this agreement, in the same manner as herein provided for other town sites; but in no such case shall more than forty acres of land be set aside for any such town site.

**Surveys of Townsites Confirmed.**

54. All town sites heretofore set aside by the Secretary of the Interior on the recommendation of the Commission to the Five Civilized Tribes, under the provisions of the act of Congress approved May 31, 1900 (31 Stats., 221), with the additional acreage added thereto, and all town sites which may hereafter be set aside, as well as all town sites set aside under the provisions of this agreement having a population of less than two hundred, shall be surveyed, laid out, platted, appraised, and disposed of in a like manner, and with like preference rights accorded to owners of improvements as other town sites in the Choctaw and Chickasaw nations are surveyed, laid out, platted, appraised, and disposed of under the Atoka agreement, as modified or supplemented by the said act of May 31, 1900: Provided, That occupants or purchasers of lots in town sites in said Choctaw and Chickasaw nations upon which no improvements have been made prior to the passage of this act by Congress shall pay full appraised value of said lots instead of the percentage named in the Atoka agreement.

## MUNICIPAL CORPORATIONS.

**Municipalities—Bonds for Improvements.**

55. Authority is hereby conferred upon municipal corporations in the Choctaw and Chickasaw nations, with the approval of the Secretary of the Interior, to issue bonds and borrow money thereon for sanitary purposes, and for the construction of sewers, lighting plants, waterworks, and school-houses, subject to all the provisions of laws of the United States in force in the organized Territories of the United States in reference to municipal indebtedness and issuance of bonds for public purposes; and said provisions of law are hereby put in force in said nations and made applicable to the cities and towns therein the same as if specially enacted in reference thereto; and said municipal corporations are hereby authorized to vacate streets and alleys, or parts thereof, and said streets and alleys, when so vacated, shall become the property of the adjacent property holders.

Redmond v. Incorporated Town of Sulphur, 32 Okla. 201, 120 Pac. 262.

## COAL AND ASPHALT.

**Coal and Asphalt Lands.**

56. At the expiration of two years after the final ratification of this agreement all deposits of coal and asphalt which are in lands within the limits of any town site established under the Atoka agreement, or the act of Congress of May 31, 1900, or this agreement, and which are within the exterior limits of any lands reserved from allotment on account of their coal or asphalt deposits, as herein provided, and which are not at the time of the final ratification of this agreement embraced in any then existing coal or asphalt lease, shall be sold at public auction for cash under the direction of the President as hereinafter provided, and the proceeds thereof disposed of as herein provided respecting the proceeds of the sale of coal and asphalt lands.

**Coal and Asphalt Deposits—Sale of.**

57. All coal and asphalt deposits which are within the limits of any town site so established, which are at the date of the final ratification of this agreement covered by any existing lease, shall, at the expiration of two years after the final ratification of this agreement, be sold at public auction under the direction of the President as hereinafter provided, and the proceeds thereof disposed of as provided in the last preceding section. The coal or asphalt covered by each lease shall be separately sold. The purchaser shall take such coal or asphalt deposits subject to the existing lease, and shall by the purchase succeed to all the rights of the two tribes of every kind and character, under the lease, but all advanced royalties received by the tribe shall be retained by them.

**Coal and Asphalt Lands to Be Segregated.**

58. Within six months after the final ratification of this agreement the Secretary of the Interior shall ascertain, so far as may be practicable, what lands are principally valuable because of their deposits of coal or asphalt, including therein all lands which at the time of the final ratification of this agreement shall be covered by then existing coal or asphalt leases, and within that time he shall, by a written order, segregate and reserve from allotment all of said lands. Such segregation and reservation shall conform to the subdivisions of the Government survey as nearly as may be, and the total segregation and reservation shall not exceed five hundred thousand acres. No lands so reserved shall be allotted to any member or freedman, and the improvements of any member or freedman existing upon any of the lands so segregated and reserved at the time of their segregation and reservation shall be appraised under the direction of the Secretary of the Interior, and shall be paid for out of any common funds of the two tribes in the Treasury of the United States, upon the order of the Secretary of the Interior. All coal and asphalt deposits, as well as other minerals which may be found in any lands not so

segregated and reserved, shall be deemed a part of the land and shall pass to the allottee or other person who may lawfully acquire title to such lands.

**Sale of Segregated Coal and Asphalt Lands.**

59. All lands segregated and reserved under the last preceding section, excepting those embraced within the limits of a town site, established as hereinbefore provided, shall, within three years from the final ratification of this agreement and before the dissolution of the tribal governments, be sold at public auction for cash, under the direction of the President, by a commission composed of three persons, which shall be appointed by the President, one on the recommendation of the principal chief of the Choctaw Nation, who shall be a Choctaw by blood, and one on the recommendation of the governor of the Chickasaw Nation, who shall be a Chickasaw by blood. Either of said commissioners may, at any time, be removed by the President for good cause shown. Each of said Commissioners shall be paid at the rate of four thousand dollars per annum, the Choctaw commissioner to be paid by the Choctaw Nation, the Chickasaw commissioner to be paid by the Chickasaw Nation, and the third commissioner to be paid by the United States. In the sale of coal and asphalt lands and coal and asphalt deposits hereunder, the commission shall have the right to reject any or all bids which it considers below the value of any such lands or deposits. The proceeds arising from the sale of coal and asphalt lands and coal and asphalt deposits shall be deposited in the Treasury of the United States to the credit of said tribes and paid out per capita to the members of said tribes (freedmen excepted) with the other moneys belonging to said tribes in the manner provided by law. The lands embraced within any coal or asphalt lease shall be separately sold, subject to such lease, and the purchaser shall succeed to all the rights of the two tribes of every kind and character, under the lease, but all advanced royalties received by the tribes shall be retained by them. The lands so segregated

and reserved, and not included within any existing coal or asphalt lease, shall be sold in tracts not exceeding in area a section under the Government survey.

**Time of Sale.**

60. Upon the recommendation of the chief executive of each of the two tribes, and where in the judgment of the President it is advantageous to the tribes so to do, the sale of any coal or asphalt lands which are herein directed to be sold may be made at any time after the expiration of six months from the final ratification of this agreement, without awaiting the expiration of the period of two years, as hereinbefore provided.

**Leases of Coal and Asphalt Lands Prohibited.**

61. No lease of any coal or asphalt lands shall be made after the final ratification of this agreement, the provisions of the Atoka agreement to the contrary notwithstanding.

Sorrels v. Jones, 26 Okla. 569, 110 Pac. 743.

**Sale of Reserved Coal and Asphalt Lands.**

62. Where any lands so as aforesaid segregated and reserved on account of their coal or asphalt deposits are in this agreement specifically reserved from allotment for any other reason, the sale to be made hereunder shall be only of the coal and asphalt deposits contained therein, and in all other respects the other specified reservation of such lands herein provided for shall be fully respected.

**Coal and Asphalt Lands—Patents to Purchasers.**

63. The chief executives of the two tribes shall execute and deliver with the approval of the Secretary of the Interior, to each purchaser of any coal or asphalt lands so sold, and to each purchaser of any coal or asphalt deposits so sold, an appropriate patent or instrument of conveyance, conveying to the purchaser the property so sold.

U. S. v. Cherokee Nation, 202 U. S. 102, 50 L. Ed. 949.

## SULPHUR SPRINGS.

**Sulphur Springs—Relinquishment by Tribes.**

64. The two tribes hereby absolutely and unqualifiedly relinquish, cede, and convey unto the United States a tract or tracts of land at and in the vicinity of the village of Sulphur, in the Chickasaw Nation, of not exceeding six hundred and forty acres, to be selected, under the direction of the Secretary of the Interior, within four months after the final ratification of this agreement, and to embrace all the natural springs in and about said village, and so much of Sulphur Creek, Rock Creek, Buckhorn Creek, and the lands adjacent to said natural springs and creeks as may be deemed necessary by the Secretary of the Interior for the proper utilization and control of said springs and the waters of said creeks, which lands shall be so selected as to cause the least interference with the contemplated town site at that place consistent with the purposes for which said cession is made, and when selected the ceded lands shall be held, owned, and controlled by the United States absolutely and without any restriction, save that no part thereof shall be platted or disposed of for town-site purposes during the existence of the two tribal governments. Such other lands as may be embraced in a town site at that point shall be disposed of in the manner provided in the Atoka agreement for the disposition of town sites. Within ninety days after the selection of the lands so ceded there shall be deposited in the Treasury of the United, to the credit of the two tribes, from the unappropriated public moneys of the United States, twenty dollars per acre for each acre so selected, which shall be in full compensation for the lands so ceded, and such moneys shall, upon the dissolution of the tribal governments, be divided per capita among the members of the tribes, freedmen excepted, as are other funds of the tribes. All improvements upon the lands so selected which were lawfully there at the time of the ratification of this agreement by Congress shall be appraised, under the direction of the Secretary of the Interior, at the true value

thereof at the time of the selection of said lands, and shall be paid for by warrants drawn by the Secretary of the Interior upon the Treasurer of the United States. Until otherwise provided by law, the Secretary of the Interior may, under rules prescribed for that purpose, regulate and control the use of the water of said springs and creeks and the temporary use and occupation of the lands so ceded. No person shall occupy any portion of the lands so ceded or carry on any business thereon, except as provided in said rules, and until otherwise provided by Congress the laws of the United States relating to the introduction, possession, sale, and giving away of liquors or intoxicants of any kind within the Indian country or Indian reservations shall be applicable to the lands so ceded, and said lands shall remain within the jurisdiction of the United States court for the southern district of Indian Territory: Provided, however, That nothing contained in this section shall be construed or held to commit the Government of the United States to any expenditure of money upon said lands or the improvements thereof, except as provided herein, it being the intention of this provision that in the future the lands and improvements herein mentioned shall be conveyed by the United States to such Territorial or State organization as may exist at the time when such conveyance is made.

In re Webb, 225 U. S. 663, 56 L. Ed. 1248.

#### MISCELLANEOUS.

##### **Patents to Minors, etc.—Acceptance.**

65. The acceptance of patents for minors, prisoners, convicts, and incompetents by persons authorized to select their allotments for them shall be sufficient to bind such minors, prisoners, convicts, and incompetents as to the conveyance of all other lands of the tribes.

##### **Patents—To Be Recorded.**

66. All patents to allotments of land, when executed, shall be recorded in the office of the Commission to the Five Civil-

ized Tribes within said nations in books appropriate for the purpose, until such time as Congress shall make other suitable provision for record of land titles as provided in the Atoka agreement, without expense to the grantee; and such records shall have like effect as other public records.

The 30,000 Land Suits, 199 Fed. 811.

U. S. v. Cherokee Nation, 202 U. S. 102, 50 L. Ed. 949.

**Repeal—Sec. 3 of Original Curtis Act Not In Force.**

67. The provisions of section three of the act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight (30 Stats. 495), shall not apply to or in any manner affect the lands or other property of the Choctaws and Chickasaws or Choctaw and Chickasaw freedmen.

**Inconsistent Laws.**

68. No act of Congress or treaty provision, nor any provision of the Atoka agreement, inconsistent with this agreement, shall be in force in said Choctaw and Chickasaw nations.

Williams v. Johnson, 32 Okla. 247, 122 Pac. 485.

Redwine v. Ansley, 32 Okla. 317, 122 Pac. 679.

Taylor v. Anderson, 197 Fed. 383.

The 30,000 Land Suits, 199 Fed. 811.

**Controversies—Determination of.**

69. All controversies arising between members as to their right to select particular tracts of land shall be determined by the Commission to the Five Civilized Tribes.

Gooding v. Watkins, 5 I. T. 578, 82 S. W. 913.

**Allotments—Selections for Minors, etc.**

70. Allotments may be selected and homesteads designated for minors by the father or mother, if members, or by a guardian or curator, or the administrator having charge of their estate, in the order named; and for prisoners, convicts, aged, and infirm persons by duly appointed agents under power of attorney; and for incompetents by guardians, curators, or other:

suitable person akin to them; but it shall be the duty of said Commission to see that said selections are made for the best interests of such parties.

**Contests—Limitation on.**

71. After the expiration of nine months after the date of the original selection of an allotment, by or for any citizen or freedmen of the Choctaw or Chickasaw tribes, as provided in this agreement, no contest shall be instituted against such selection.

*Sorrels v. Jones*, 26 Okla. 569, 110 Pac. 743.

*Frame v. Bivens*, 189 Fed. 785.

72. There shall be paid to each citizen of the Chickasaw Nation, immediately after the approval of his enrollment and right to participate in distribution of tribal property, as herein provided, the sum of forty dollars. Such payment shall be made under the direction of the Secretary of the Interior, and out of the balance of the "arrears of interest" of five hundred and fifty-eight thousand five hundred and twenty dollars and fifty-four cents appropriated by the act of Congress approved June twenty-eighth, eighteen hundred and ninety-eight, entitled "An act for the protection of the people of the Indian Territory, and for other purposes," yet due to the Chickasaws and remaining to their credit in the Treasury of the United States; and so much of such moneys as may be necessary for such payment are hereby appropriated and made available for that purpose, and the balance, if any there be, shall remain in the Treasury of the United States, and be distributed per capita with the other funds of the tribes. And all acts of Congress or other treaty provisions in conflict with this provision are hereby repealed.

**Agreement Effective After Ratification.**

73. This agreement shall be binding upon the United States and upon the Choctaw and Chickasaw nations and all Choctaws and Chickasaws, when ratified by Congress and by a ma-

jority of the whole number of votes cast by the legal voters of the Choctaw and Chickasaw tribes in the manner following: The principal chief of the Choctaw Nation and the governor of the Chickasaw Nation shall, within one hundred and twenty days after the ratification of this agreement by Congress, make public proclamation that the same shall be voted upon at any special election to be held for that purpose within thirty days thereafter, on a certain day therein named; and all male citizens of each of the said tribes qualified to vote under the tribal laws shall have a right to vote at the election precinct most convenient to his residence, whether the same be within the bounds of his tribe or not. And if this agreement be ratified by said tribes as aforesaid, the date upon which said election is held shall be deemed to be the date of final ratification.

Williams v. Johnson, 32 Okla. 247, 122 Pac. 485.

Taylor v. Anderson, 197 Fed. 383.

#### **Canvass of Votes—Proclamation.**

74. The votes cast in both the Choctaw and Chickasaw nations shall be forthwith returned and duly certified by the precinct officers to the national secretaries of said tribes, and shall be presented by said national secretaries to a board of commissioners consisting of the principal chief and the national secretary of the Choctaw Nation and the governor and national secretary of the Chickasaw Nation and two members of the Commission to the Five Civilized Tribes; and said board shall meet without delay at Atoka, Indian Territory, and canvass and count said votes, and make proclamation of the result.

In witness whereof the said Commissioners do hereby affix their names at Washington, District of Columbia, this twenty-first day of March, 1902.

CHOCTAW-CHICKASAW TREATY.  
FURTHER ANNOTATIONS.

CHOCTAW-CHICKASAW TREATY.

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FURTHER ANNOTATIONS.

## CHEROKEE TREATY.

## CHEROKEE TREATY.

Approved by Act of Congress July 1, 1902.

Ratified by the Cherokee Nation August 7, 1902.

(32 Stat. L. 716.)

AN ACT TO PROVIDE FOR THE ALLOTMENT OF THE  
LANDS OF THE CHEROKEE NATION, FOR THE DISPOSITION  
OF TOWN SITES THEREIN, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE SENATE AND HOUSE OF  
REPRESENTATIVES OF THE UNITED STATES OF  
AMERICA IN CONGRESS ASSEMBLED,

## DEFINITION OF WORDS EMPLOYED HEREIN.

**Definitions.**

SECTION 1. The words "nation" and "tribe" shall each be held to refer to the Cherokee Nation or tribe of Indians in Indian Territory.

**Definitions.**

SEC. 2. The words "principal chief" or "chief executive" shall be held to mean the principal chief of said tribe.

**Definitions.**

SEC. 3. The words "Dawes Commission" or "Commission" shall be held to mean the United States Commission to the Five Civilized Tribes.

**Definitions.**

SEC. 4. The word "minor" shall be held to mean males under the age of twenty-one years and females under the age of eighteen years.

**Definitions—Terms.**

SEC. 5. The terms "allotable lands" or "lands allotable" shall be held to mean all the lands of the Cherokee tribe not herein reserved from allotment.

**Definitions.**

SEC. 6. The word "select" and its various modifications, as applied to allotments and homesteads, shall be held to mean the formal application at the land office, to be established by the Dawes Commission for the Cherokee Nation, for particular tracts of land.

**Definitions.**

SEC. 7. The words "Member" or "members" and "citizen" or "citizens" shall be held to mean members or citizens of the Cherokee Nation, in the Indian Territory.

**Definitions—Construction.**

SEC. 8. Every word in this act importing the masculine gender may extend and be applied to females as well as males, and the use of the plural may include also the singular, and vice versa.

## APPRAISEMENT OF LANDS.

**Appraisement of Lands—True Value.**

SEC. 9. The lands belonging to the Cherokee tribe of Indians in Indian Territory, except such as are herein reserved from allotment, shall be appraised at their true value: Provided, That in the determination of the value of such land consideration shall not be given to the location thereof, to any timber thereon, or to any mineral deposits contained therein, and shall be made without reference to improvements which may be located thereon.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

**Appraisement by Commission.**

SEC. 10. The appraisement, as herein provided, shall be made by the Commission to the Five Civilized Tribes, under the direction of the Secretary of the Interior.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

## ALLOTMENT OF LANDS.

**Allotment to Citizens—Standard Allotment.**

SEC. 11. There shall be allotted by the Commission to the Five Civilized Tribes and to each citizen of the Cherokee tribe, as soon as practicable after the approval by the Secretary of the Interior of his enrollment as herein provided, land equal in value to one hundred and ten acres of the average allottable lands of the Cherokee Nation, to conform as nearly as may be to the areas and boundaries established by the government survey, which land may be selected by each allottee so as to include his improvements.

Ross v. Wright, 29 Okla. 186.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

Henry Gas Co. v. U. S., 191 Fed. 132.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

Heckman v. U. S. 224 U. S. 413, 56 L. Ed. 820.

Bledsoe v. Wortman, 129 Pac. 841.

**Legal Subdivisions.**

SEC. 12. For the purpose of making allotments and designating homesteads hereunder, the forty-acre, or quarter of a quarter section, subdivision established by the Government survey may be dealt with as if further subdivided into four equal parts in the usual manner, thus making the smallest legal subdivision ten acres, or a quarter of a quarter of a quarter of a section.

Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.

**Homesteads Inalienable and Non-Taxable.**

SEC. 13. Each member of said tribe shall, at the time of the selection of his allotment, designate as a homestead out of said allotment land equal in value to forty acres of the average allottable lands of the Cherokee Nation, as nearly as may be, which shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the certificate of allotment. Separate certificate shall issue for said home-

stead. During the time said homestead is held by the allottee the same shall be non-taxable and shall not be liable for any debt contracted by the owner thereof while so held by him.

Whitmire v. Trapp, 126 Pac. 578, 33 Okla. 429.  
Rentie v. McCoy, 128 Pac. 244.  
Weilup v. Audrain, 128 Pac. 254.  
In re Washington's Estate, 128 Pac. 1079.  
United States v. Allen, 171 Fed. 909, 179 Fed. 13.  
Truskett v. Closser, 198 Fed. 835.  
The 30,000 Land Suits, 199 Fed. 811.  
Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.

#### **Restrictions on Alienation.**

SEC. 14. Lands allotted to citizens shall not in any manner whatever or at any time be encumbered, taken, or sold to secure or satisfy any debt or obligation, or be alienated by the allottee or his heirs, before the expiration of five years from the date of the ratification of this act.

Landrum v. Graham, 22 Okla. 458, 98 Pac. 432.  
Allen v. Oliver, 31 Okla. 356, 121 Pac. 226.  
In re Washington's Estate, 128 Pac. 1079.  
United States v. Allen, 171 Fed. 909, 179 Fed. 13.  
Truskett v. Closser, 198 Fed. 835.  
The 30,000 Land Suits, 199 Fed. 811.  
Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.  
Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.  
Bledsoe v. Wortman, 129 Pac. 841.

#### **Restrictions on Alienation.**

SEC. 15. All lands allotted to the members of said tribe, except such land as is set aside to each for a homestead as herein provided, shall be alienable in five years after issuance of patent.

Allen v. Oliver, 31 Okla. 356, 121 Pac. 226.  
United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
Truskett v. Closser, 198 Fed. 835.  
The 30,000 Land Suits, 199 Fed. 811.  
Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.  
Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.  
Bledsoe v. Wortman, 129 Pac. 841.

**Arbitrary Allotments by Commission.**

SEC. 16. If for any reason an allotment should not be selected or a homestead designated by or on behalf of any member of the tribe, it shall be the duty of said Commission to make said selection and designation.

**Minimum Subdivisions.**

SEC. 17. In the making of allotments and in the designation of homesteads for members of said tribe, said Commission shall not be required to divide lands into tracts of less than the smallest legal subdivision provided for in section twelve hereof.

**Excessive Holdings—Penalty.**

SEC. 18. It shall be unlawful after ninety days after the ratification of this act by the Cherokees for any member of the Cherokee tribe to inclose or hold possession of, in any manner, by himself or through another, directly or indirectly, more lands in value than that of one hundred and ten acres of average allottable lands of the Cherokee Nation, either for himself or for his wife, or for each of his minor children, if members of said tribe; and any member of said tribe found in such possession of lands, or having the same in any manner inclosed, after the expiration of ninety days after the date of the ratification of this act shall be deemed guilty of a misdemeanor.

Bledsoe v. Wortman, 129 Pac. 841.

**Excessive Holdings—Punishment for.**

SEC. 19. Any person convicted of violating any of the provisions of section eighteen of this act shall be punished by a fine of not less than one hundred dollars, shall stand committed until such fine and costs are paid (such commitment not to exceed one day for every two dollars of said fine and costs), and shall forfeit possession of any property in question, and each day on which such offense is committed or continues to exist shall be deemed a separate offense. The United States district attorney for the northern district is required

to see that the provisions of said section eighteen are strictly enforced, and he shall immediately, after the expiration of the ninety days after the ratification of this act, proceed to dispossess all persons of such excessive holdings of lands and to prosecute them for so unlawfully holding the same, and the Commission to the Five Civilized Tribes shall have authority to make investigations of all violations of section eighteen and make report thereon to the United States district attorney.

**Allotments to Heirs.**

SEC. 20. If any person whose name appears upon the roll prepared as herein provided shall have died subsequent to the first day of September, nineteen hundred and two, and before receiving his allotment, the lands to which such person would have been entitled if living shall be allotted in his name, and shall, with his proportionate share of other tribal property, descend to his heirs according to the laws of descent and distribution as provided in chapter forty-nine of Mansfield's Digest of the Statutes of Arkansas: Provided, That the allotment thus to be made shall be selected by a duly appointed administrator or executor. If, however, such administrator or executor be not duly and expeditiously appointed, or fails to act promptly when appointed, or for any other cause such selection be not so made within a reasonable and proper time, the Dawes Commission shall designate the lands thus to be allotted.

Austin v. Chambers, 124 Pac. 310, 33 Okla. 40.  
Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

**Allotment Certificates as Evidence of Title.**

SEC. 21. Allotment certificates issued by the Dawes Commission shall be conclusive evidence of the right of an allottee to the tract of land described therein, and the United States Indian agent for the Union Agency shall, under the direction of the Secretary of the Interior, upon the application of the allottee, place him in possession of his allotment, and shall re-

move therefrom all persons objectionable to him, and the acts of the Indian agent hereunder shall not be controlled by the writ or process of any court.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

Redbird v. U. S., 203 U. S. 80, 51 L. Ed. 96.

**Exclusive Jurisdiction in Commission.**

SEC. 22. Exclusive jurisdiction is hereby conferred upon the Commission to the Five Civilized Tribes, under the direction of the Secretary of the Interior, to determine all matters relative to the appraisement and the allotment of lands.

Dick v. Ross, 6 I. T. 85, 89 S. W. 664.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

**Delaware—Cherokee Allotments.**

SEC. 23. All Delaware Indians who are members of the Cherokee Nation shall take lands and share in the funds of the tribe, as their rights may be determined by the judgment of the Court of Claims, or by the Supreme Court if appealed, in the suit instituted therein by the Delawares against the Cherokee Nation, and now pending; but if said suit be not determined before said Commission is ready to begin the allotment of lands of the tribe as herein provided, the Commission shall cause to be segregated one hundred and fifty-seven thousand six hundred acres of land, including lands which have been selected and occupied by Delawares in conformity to the provisions of their agreement with the Cherokees dated April eighth, eighteen hundred and sixty-seven, such lands so to remain, subject to disposition according to such judgment as may be rendered in said cause; and said Commission shall thereupon proceed to the allotment of the remaining lands of the tribe as aforesaid. Said Commission shall, when final judgment is rendered, allot lands to such Delawares in conformity to the terms of the judgment and their individual rights thereunder. Nothing in this act shall in any manner impair the rights of either party to said contract as the same may be

finally determined by the court, or shall interfere with the holdings of the Delawares under their contract with the Cherokees of April eighth, eighteen hundred and sixty-seven, until their rights under said contract are determined by the courts in their suit now pending against the Cherokees, and said suit shall be advanced on the dockets of said courts and determined at the earliest time practicable.

Delaware Indians v. Cherokee Indians, 193 U. S. 130, 48 L. Ed. 646.

#### RESERVATIONS.

##### **Reservations—Townsites—Schools, etc.**

SEC. 24. The following lands shall be reserved from the allotment of lands herein provided for:

(a) All lands set apart for town sites by the provision of the act of Congress of June twenty-eighth, eighteen hundred and ninety-eight (Thirtieth Statutes, page four hundred and ninety-five), the provisions of the act of Congress of May thirty-first, nineteen hundred (Thirty-first Statutes, page two hundred and twenty-one), and by the provisions of this act.

(b) All lands to which, upon the date of the ratification of this act, any railroad company may, under any treaty or act of Congress, have a vested right for right of way, depots, station grounds, water stations, stock yards, or similar uses only, connected with the maintenance and operation of the railroad.

(c) All lands selected for town cemeteries not to exceed twenty acres each.

(d) One acre of land for each Cherokee schoolhouse not included in town sites or herein otherwise provided for.

(e) Four acres for Willie Halsell College at Vinita.

(f) Four acres for Baptist Mission school at Tahlequah.

(g) Four acres for Presbyterian school at Tahlequah.

(h) Four acres for Park Hill Mission school south of Tahlequah.

(i) Four acres for Elm Springs Mission School at Barren Fork.

- (j) Four acres for Dwight Mission school at Sallisaw.
- (k) Four acres for Skiatook Mission near Skiatook.
- (l) Four acres for Lutheran Mission School on Illinois River north of Tahlequah.

(m) Sufficient ground for burial purposes where neighborhood cemeteries are now located, not to exceed three acres each.

- (n) One acre for each church house outside of towns.

(o) The square now occupied by the capitol building at Tahlequah.

(p) The grounds now occupied by the national jail at Tahlequah.

(q) The grounds now occupied by the Cherokee Advocate printing office at Tahlequah.

(r) Forty acres for the Cherokee Male Seminary near Tahlequah.

(s) Forty acres for the Cherokee Female Seminary at Tahlequah.

(t) One hundred and twenty acres for the Cherokee Orphan Asylum on Grand River.

(u) Forty acres for colored high school in Tahlequah district.

- (v) Forty acres for Cherokee Insane Asylum.

(w) Four acres for the school for blind, deaf, and dumb children near Fort Gibson.

The acre so reserved for any church or schoolhouse in any quarter section of land shall be located where practicable in a corner of such quarter section adjacent to the section lines thereof.

Provided, That the Methodist Episcopal Church South, may, within twelve months after the ratification of this act, pay ten dollars per acre for the one hundred and sixty acres of land adjacent to the town of Vinita, and heretofore set apart by act of the Cherokee national council for the use of said church for missionary and educational purposes, and now occupied by Willie Halsell College (formerly Galloway College), and

shall thereupon receive title thereto; but if said church fail so to do it may continue to occupy said one hundred and sixty acres of land as long as it uses same for the purposes aforesaid.

Any other school or college in the Cherokee Nation which claims to be entitled under the law to a greater number of acres than is set apart for said school or college by section twenty-four of this act may have the number of acres to which it is entitled by law. The trustees of such school or college shall, within sixty days after the ratification of this act, make application to the Secretary of the Interior for the number of acres to which such school or college claims to be entitled, and if the Secretary of the Interior shall find that such school or college is, under the laws and treaties of the Cherokee Nation in force prior to the ratification of this act, entitled to a greater number of acres of land than is provided for in this act, he shall so determine and his decision shall be final. The amount so found by the Secretary of the Interior shall be set apart for the use of such college or school as long as the same may be used for missionary and educational purposes: Provided, That the trustees of such school or college shall pay ten dollars per acre for the number of acres so found by the Secretary of the Interior and which have been heretofore set apart by act of the Cherokee national council for use of such school or college for missionary or educational purposes, and upon the payment of such sum within sixty days after the decision of the Secretary of the Interior said college or school may receive a title to such land.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

#### ROLL OF CITIZENSHIP.

##### **Persons. Entitled—Living September 1, 1902.**

SEC. 25. The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment

on that date shall be placed on said roll by the Commission to the Five Civilized Tribes.

Robinson v. Owen, 30 Okla. 484, 119 Pac. 995.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

Redbird v. U. S., 203 U. S. 80, 51 L. Ed. 96.

#### **Persons Entitled to Enrollment.**

SEC. 26. The names of all persons living on the first day of September, nineteen hundred and two, entitled to be enrolled as provided in section twenty-five hereof, shall be placed upon the roll made by said Commission, and no child born thereafter to a citizen, and no white person who has intermarried with a Cherokee citizen since the sixteenth day of December, eighteen hundred and ninety-five, shall be entitled to enrollment or to participate in the distribution of the tribal property of the Cherokee Nation.

Robinson v. Owen, 30 Okla. 484, 119 Pac. 995.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

Redbird v. U. S., 203 U. S. 80, 51 L. Ed. 96.

Muskrat v. U. S., 219 U. S. 346, 55 L. Ed. 246.

#### **Rolls of Citizenship—Preparation.**

SEC. 27. Such rolls shall in all other respects be made in strict compliance with the provisions of section twenty-one of the act of Congress approved June twenty-eighth, eighteen hundred ninety-eight (Thirtieth Statutes, page four hundred and ninety-five) and the act of Congress approved May thirty-first, nineteen hundred (Thirty-first Statutes, page two hundred and twenty-one).

Robinson v. Owen, 30 Okla. 484, 119 Pac. 995.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

Redbird v. U. S., 203 U. S. 80, 51 L. Ed. 96.

Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.

#### **Rolls of Citizenship—Exclusion.**

SEC. 28. No person whose name appears upon the roll made by the Dawes Commission as a citizen or freedman of any

other tribe shall be enrolled as a citizen of the Cherokee Nation.

*Robinson v. Owen*, 30 Okla. 484, 119 Pac. 995.

*Gritts v. Fisher*, 224 U. S. 640, 56 L. Ed. 928.

*Redbird v. U. S.*, 203 U. S. 80, 51 L. Ed. 96.

#### **Rolls of Citizenship—Preparation—Disposition.**

SEC. 29. For the purpose of expediting the enrollment of the Cherokee citizens and the allotment of lands as herein provided, the said Commission shall, from time to time, and as soon as practicable, forward to the Secretary of the Interior lists upon which shall be placed the names of those persons found by the Commission to be entitled to enrollment. The lists thus prepared, when approved by the Secretary of the Interior, shall constitute a part and parcel of the final roll of citizens of the Cherokee tribe upon which allotment of land and distribution of other tribal property shall be made. When there shall have been submitted to and approved by the Secretary of the Interior lists embracing the names of all those lawfully entitled to enrollment, the roll shall be deemed complete. The roll so prepared shall be made in quadruplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Cherokee Nation, and one to remain with the Commission to the Five Civilized Tribes.

*Gritts v. Fisher*, 224 U. S. 640, 56 L. Ed. 928.

*Redbird v. U. S.*, 203 U. S. 80, 51 L. Ed. 96.

*Lowe v. Fisher*, 223 U. S. 95, 56 L. Ed. 364.

#### **Applications for Enrollment—Infants.**

SEC. 30. During the months of September and October, in the year nineteen hundred and two, the Commission to the Five Civilized Tribes may receive applications for enrollment of such infant children as may have been born to recognized and enrolled citizens of the Cherokee Nation on or before the first day of September, nineteen hundred and two, but the application of no person whomsoever for enrollment shall be received

after the thirty-first day of October, nineteen hundred and two.

*Gritts v. Fisher*, 224 U. S. 640, 56 L. Ed. 928.

*Redbird v. U. S.*, 203 U. S. 80, 51 L. Ed. 96.

**Exclusion of Persons Not on Rolls of Citizenship.**

SEC. 31. No person whose name does not appear upon the roll prepared as herein provided shall be entitled to in any manner participate in the distribution of the common property of the Cherokee tribe, and those whose names appear thereon shall participate in the manner set forth in this act: Provided, That no allotment of land or other tribal property shall be made to any person, or to the heirs of any person, whose name is on said roll and who died prior to the first day of September, nineteen hundred and two. The right of such person to any interest in the lands or other tribal property shall be deemed to have become extinguished and to have passed to the tribe in general upon his death before said date, and any person or persons who may conceal the death of anyone on said roll as aforesaid for the purpose of profiting by said concealment, and who shall knowingly receive any portion of any land or other tribal property or of the proceeds so arising from any allotment prohibited by this section, shall be deemed guilty of a felony, and shall be proceeded against as may be provided in other cases of felony, and the penalty for this offense shall be confinement at hard labor for a period of not less than one year nor more than five years, and in addition thereto a forfeiture to the Cherokee Nation of the lands, other tribal property, and proceeds so obtained.

*Gritts v. Fisher*, 224 U. S. 640, 56 L. Ed. 928.

*Redbird v. U. S.*, 203 U. S. 80, 51 L. Ed. 96.

**SCHOOLS.**

**School Funds—Use of.**

SEC. 32. The Cherokee school fund shall be used, under the direction of the Secretary of the Interior, for the education

of children of Cherokee citizens, and the Cherokee schools shall be conducted under rules prescribed by him according to Cherokee laws, subject to such modifications as he may deem necessary to make the schools most effective and to produce the best possible results; said schools to be under the supervision of a supervisor appointed by the Secretary and a school board elected by the national council.

**Schools—Teachers.**

SEC. 33. All teachers shall be examined by said supervisor, and said school board and competent teachers and other persons to be engaged in and about the schools with good moral character only shall be employed; but where all qualifications are equal, preference shall be given to citizens of the Cherokee Nation in such employment.

**Schools—Expenditure of Funds.**

SEC. 34. All moneys for carrying on the schools shall be appropriated by the Cherokee national council, not to exceed the amount of the Cherokee school fund; but if the council fail or refuse to make the necessary appropriations, the Secretary of the Interior may direct the use of a sufficient amount of the school fund to pay all necessary expenses for the efficient conduct of the schools, strict account therefor to be rendered to him and the principal chief.

**Schools—Accounts.**

SEC. 35. All accounts for expenditures in carrying on the schools shall be examined and approved by said supervisor, and also by the general superintendent of Indian schools in the Indian Territory, before payment thereof is made.

**Orphan's Fund—Interest.**

SEC. 36. The interest arising from the Cherokee orphan fund shall be used, under the direction of the Secretary of the Interior, for maintaining the Cherokee Orphan Asylum for the benefit of the Cherokee orphan children.

## ROADS.

**Roads.**

SEC. 37. Public highways or roads two rods in width, being one rod on each side of the section line, may be established along all section lines without any compensation being paid therefor, and all allottees, purchasers, and others shall take the title to such lands subject to this provision; and public highways or roads may be established elsewhere whenever necessary for the public good, the actual value of the land taken elsewhere than along section lines, to be determined under the direction of the Secretary of the Interior while the tribal government continues and to be paid by the Cherokee Nation during that time; and if buildings or other improvements are damaged in consequence of the establishment of such public highways or roads, whether along section lines or elsewhere, such damages, during the continuance of the tribal government, shall be determined and paid for the same manner.

Mills v. Glasscock, 26 Okla. 123, 110 Pac. 377.

## TOWN SITES.

**Townsites—Limit to Acreage.**

SEC. 38. The lands which may hereafter be set aside and reserved for town sites upon the recommendation of the Dawes Commission under the provisions of the act of Congress approved May thirty-first, nineteen hundred (Thirty-first Statutes, page two hundred and twenty-one), shall embrace such acreage as may be necessary for the present needs and reasonable prospective growth of such town sites, not to exceed six hundred and forty acres for each town site.

Ross v. Stewart, 25 Okla. 611, 108 Pac. 870, construing sections 38-57.

**Town Lots—Right of Occupant to Purchase.**

SEC. 39. Whenever any tract of land shall be act aside by the Secretary of the Interior for town-site purposes, as pro-

vided in said act of May thirty-first, nineteen hundred, or by the terms of this act, which is occupied at the time of such segregation by any member of the Cherokee Nation, such occupant shall be allowed to purchase any lot upon which he then has improvements other than fences, tillage, and temporary improvements, in accordance with the provisions of the act of June twenty-eighth, eighteen hundred and ninety-eight (Thirtieth Statutes, page four hundred and ninety-five), or, if he so elects, the lot will be sold under rules and regulations to be prescribed by the Secretary of the Interior, and he shall be fully compensated for his improvements thereon out of the funds of the tribe arising from the sale of the town sites, the value of such improvements to be determined by a board of appraisers, one member of which shall be appointed by the Secretary of the Interior, one by the chief executive of the tribe, and one by the occupant of the land, said board of appraisers to be paid such compensation for their services as may be determined by the Secretary of the Interior out of any appropriations for surveying, laying out, platting, and selling town sites.

**Townsites—Survey—Appraisement—Sale.**

SEC. 40. All town sites which may hereafter be set aside by the Secretary of the Interior on the recommendation of the Commission to the Five Civilized Tribes, under the provisions of the act of Congress approved May thirty-first, nineteen hundred (Thirty-first Statutes, page two hundred and twenty-one), with the additional acreage added thereto, as well as all town sites set aside under the provisions of this act having a population of less than two hundred, shall be surveyed, laid out, platted, appraised, and disposed of in like manner, and with like preference rights accorded to owners of improvements as other town sites in the Cherokee Nation are surveyed, laid out, platted, appraised, and disposed of under the act of Congress of June twenty-eight, eighteen hundred and ninety-eight (Thirtieth Statutes, page four hundred and ninety-five), as

modified or supplemented by the act of May Thirty-first, nineteen hundred: Provided, That as to the town sites set aside as aforesaid, the owner of the improvements shall be required to pay the full appraised value of the lot instead of the percentage named in said act of June twenty-eighth, eighteen hundred and ninety-eight (Thirtieth Statutes, page four hundred and ninety-five).

**Town Lots—Right of Occupant to Purchase.**

SEC. 41. Any person being in possession or having the right to the possession of any town lot or lots, as surveyed and platted under the direction of the Secretary of the Interior, in accordance with the act of Congress approved May thirty-first, nineteen hundred (Thirty-first Statutes, page two hundred and twenty-one), the occupancy of which lot or lots was originally acquired under any town-site act of the Cherokee Nation, and owning improvements thereon, other than temporary buildings, fencing, or tillage, shall have the right to purchase the same at one-fourth of the appraised value thereof.

**Town Lots—Right of Occupant to Purchase.**

SEC. 42. Any person being in possession of, or having the right to the possession of, any town lot or lots, as surveyed and platted under the direction of the Secretary of the Interior, in accordance with the act of Congress approved May thirty-first, nineteen hundred (Thirty-first Statutes, page two hundred and twenty-one), the occupancy of which lot or lots was originally acquired under any town-site act of the Cherokee Nation, and not having any improvements thereon, shall have the right to purchase the same at one-half of the appraised value thereof.

**Town Lots—Right of Occupant to Purchase.**

SEC. 43. Any citizen in rightful possession of any town lot having improvements thereon other than temporary buildings, fencing, and tillage, the occupancy of which has not been

acquired under tribal laws, shall have the right to purchase same by paying one-half the appraised value thereof: Provided, That any other person in undisputed possession of any town lot having improvements thereon other than temporary buildings, fencing, and tillage, the occupancy of which has not been acquired under tribal laws, shall have the right to purchase such lot by paying the appraised value thereof.

**Town Lots—Sale of Unimproved Lots.**

SEC. 44. All lots not having thereon improvements other than temporary buildings, fencing, and tillage, the sale or disposition of which is not herein otherwise specifically provided for, shall be sold within twelve months after appraisalment, under the direction of the Secretary of the Interior, after due advertisement, at public auction, to the highest bidder, at not less than their appraised value.

**Town Lots—Terms of Payment.**

SEC. 45. When the appraisalment of any town lot is made and approved, the town-site commission shall notify the claimant thereof of the amount of appraisalment, and he shall, within sixty days thereafter, make payment of ten per centum of the amount due for the lot, and four months thereafter he shall pay fifteen per centum additional, and the remainder of the purchase money he shall pay in three equal annual installments without interest; but if the claimant of any such lot fail to purchase same or make the first and second payments aforesaid, or make any other payment within the time specified, the lot and improvements shall be sold at public auction to the highest bidder, under the direction of the Secretary of the Interior, at a price not less than its appraised value.

**Town Lots—Sale of—Appraisal of Improvements.**

SEC. 46. When any improved lot shall be sold at public auction because of the failure of the person owning improvements thereon to purchase same within the time allowed in said act of Congress approved June twenty-eighth, eighteen

hundred and ninety-eight (Thirtieth Statutes, page four hundred and ninety-five), said improvements shall be appraised by a committee, one member of which shall be selected by the owner of the improvements and one member by the purchaser of said lot; and in case the said committee is not able to agree upon the value of said improvements, the committee may select a third member, and in that event the determination of the majority of the committee shall control. Said committee of appraisement shall be paid such compensation for their services by the two parties in interest, share and share alike, as may be agreed upon, and the amount of said appraisement shall be paid by the purchaser of the lot to the owner of the improvements in cash within thirty days after the decision of the committee of appraisement.

**Town Lots—Terms of Payment.**

SEC. 47. The purchaser of any unimproved town lot sold at public auction shall pay twenty-five per centum of the purchase money at the time of the sale, and within four months thereafter he shall pay twenty-five per centum additional, and the remainder of the purchase money he shall pay in two equal annual installments without interest.

**Towns of Less Than Two Hundred Inhabitants.**

SEC. 48. Such towns in the Cherokee Nation as may have a population of less than two hundred people not otherwise provided for, and which, in the judgment of the Secretary of the Interior, should be set aside as town sites, shall have their limits defined as soon as practicable after the approval of this act in the same manner as provided for other town sites.

**Location of Cemeteries and Parks.**

SEC. 49. The town authorities of any town site in said Cherokee Nation may select and locate, subject to the approval of the Secretary of the Interior, a cemetery within suitable distance from said town, to embrace such number of acres as may be deemed necessary for such purpose. The town-site

commission shall appraise the same at its true value, and the town may purchase the same within one year from the approval of the survey by paying the appraised value. If any citizen have improvements thereon, said improvements shall be appraised by said town-site commission and paid for by the town: Provided, That lands already laid out by tribal authorities for cemeteries shall be included in the cemeteries herein provided for without cost to the towns, and the holdings of the burial lots therein now occupied for such purpose shall in no wise be disturbed: And provided further, That any park laid out and surveyed in any town shall be duly appraised at a fair valuation, and the inhabitants of said town shall, within one year after the approval of the survey and the appraisalment of said park by the Secretary of the Interior, pay the appraised value to the proper officer for the benefit of the tribe.

**Surveys—Payment for.**

SEC. 50. The United States shall pay all expenses incident to surveying, platting, and disposition of town lots, and all allotments of lands made under the provisions of this plan of allotment, except where the town authorities may have been or may be duly authorized to survey and plat their respective towns at the expense of such towns.

**Taxes.**

SEC. 51. No taxes shall be assessed by any town government against any town lot remaining unsold, but taxes may be assessed against any town lot sold as herein provided.

**Delinquent Payments—Interest on.**

SEC. 52. If the purchaser of any town lot fail to make payment of any sum when due, the same shall thereafter bear six per centum interest per annum until paid.

**Church Lots—Gratuitous Conveyance.**

SEC. 53. All lots or parts of lots, not exceeding fifty by one hundred and fifty feet in size, upon which church houses and

parsonages have been erected, and which are occupied as such at the time of the appraisal, shall be conveyed gratuitously to the churches to which such improvements belong, and if such churches have inclosed other adjoining lots actually necessary for their use, they may purchase the same by paying the appraised value thereof.

**Townsite Commissions—Vacancies.**

SEC. 54. Whenever the chief executive of the Cherokee Nation fails or refuses to appoint a town-site commissioner for any town, or to fill any vacancy caused by the neglect or refusal of the town-site commissioners appointed by the chief executive to qualify or act, or otherwise, the Secretary of the Interior, in his discretion, may appoint a commissioner to fill the vacancy thus created.

**Payment for Town Lots.**

SEC. 55. The purchaser of any town lot may at any time pay the full amount of the purchase money, and he shall thereupon receive title therefor.

**Sales of Lots at Public Auction—Bids.**

SEC. 56. Any person may bid for and purchase any lot sold at public auction as herein provided.

**Courthouse Lots—Purchase by United States.**

SEC. 57. The United States may purchase in any town in the Cherokee Nation suitable lands for court-houses, jails, or other necessary public purposes for its use by paying the appraised value thereof, the same to be selected under the direction of the department for whose use such lands are needed, and if any person have improvements thereon the same shall be appraised in like manner as other town property, and shall be paid for by the United States.

**TITLES.**

**Patents to Allotments.**

SEC. 58. The Secretary of the Interior shall furnish the principal chief with blank patents necessary for all conveyances

herein provided for, and when any citizen receives his allotment of land, or when any allotment has been so ascertained and fixed that title should under the provisions of this act be conveyed, the principal chief shall thereupon proceed to execute and deliver to him a patent conveying all the right, title, and interest of the Cherokee Nation, and of all other citizens, in and to the lands embraced in his allotment certificate.

**Patents—Approval by Secretary.**

SEC. 59. All conveyances shall be approved by the Secretary of the Interior which shall serve as a relinquishment to the grantee of all the right, title, and interest of the United States in and to the lands embraced in his patent.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

**Patents—Acceptance of by Allottees.**

SEC. 60. Any allottee accepting such patent shall be deemed to assent to the allotment and conveyance of all the lands of the tribe as provided in this act and to relinquish all his right, title, and interest to the same, except in the proceeds of lands reserved from allotment.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

**Patents—Acceptance for Minors.**

SEC. 61. The acceptance of patents for minors and incompetents by persons authorized to select their allotments for them shall be deemed sufficient to bind such minors and incompetents as to the conveyance of all other lands of the tribe.

**Patents—To Be Recorded.**

SEC. 62. All patents, when so executed and approved, shall be filed in the office of the Dawes Commission, and recorded in a book provided for the purpose, until such time as Congress shall make other suitable provision for record of land titles, without expense to the grantee, and such records shall have like effect as other public records.

## MISCELLANEOUS.

**Tribal Government—Termination of.**

SEC. 63. The tribal government of the Cherokee Nation shall not continue longer than March fourth, nineteen hundred and six.

Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

**Revenues of Tribe.**

SEC. 64. The collection of all revenue of whatsoever character belonging to the tribe shall be made by an officer appointed by the Secretary of the Interior, under rules and regulations to be prescribed by the said Secretary.

**Powers of Secretary of Interior.**

SEC. 65. All things necessary to carry into effect the provisions of this act, not otherwise herein specifically provided for, shall be done under the authority and direction of the Secretary of the Interior.

Lynch v. Harris, 124 Pac. 50, 33 Okla. 23, 36.

**Tribal Funds—Disbursement by Secretary.**

SEC. 66. All funds of the tribe, and all moneys accruing under the provisions of this act, shall be paid out under the direction of the Secretary of the Interior, and when required for per capita payments shall be paid directly to each individual by an appointed officer of the United States, under the direction of the Secretary of the Interior.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

**Debts—Payment of.**

SEC. 67. The Secretary of the Interior shall cause to be paid all just indebtedness of said tribe existing at the date of the ratification of this act which may have lawfully been contracted, and warrants therefor regularly issued upon the several funds of the tribe, as also warrants drawn by authority of

law hereafter and prior to the dissolution of the tribal government, such payments to be made from any funds in the United States Treasury belonging to said tribe, and all such indebtedness of the tribe shall be paid in full before any pro rata distribution of the funds of the tribe shall be made. The Secretary of the Interior shall make such payments at the earliest time practicable, and he shall make all needed rules and regulations to carry this provision into effect.

*Gritts v. Fisher*, 224 U. S. 640, 56 L. Ed. 928.

**Claims vs. United States—Referred to Court of Claims.**

SEC. 68. Jurisdiction is hereby conferred upon the Court of Claims to examine, consider, and adjudicate, with a right of appeal to the Supreme Court of the United States by any party in interest feeling aggrieved at the decision of the Court of Claims, any claim which the Cherokee tribe, or any band thereof, arising under treaty stipulations, may have against the United States, upon which suit shall be instituted within two years after the approval of this act; and also to examine, consider, and adjudicate any claim which the United States may have against said tribe, or any band thereof. The institution, prosecution, or defense as the case may be, on the part of the tribe or any band, of any such suit, shall be through attorneys employed and to be compensated in the manner prescribed in sections twenty-one hundred and three to twenty-one hundred and six, both inclusive, of the Revised Statutes of the United States, the tribe acting through its principal chief in the employment of such attorneys, and the band acting through a committee recognized by the Secretary of the Interior. The Court of Claims shall have full authority, by proper orders and process, to make parties to any such suit all persons whose presence in the litigation it may deem necessary or proper to the final determination of the matter in controversy, and any such suit shall, on motion of either party, be advanced on the docket of either of said courts and be determined at the earliest practicable time.

*Eastern Cherokees v. U. S.*, 225 U. S. 572, 56 L. Ed. 1212.

**Contests—Nine Months Limitation.**

SEC. 69. After the expiration of nine months after the date of the original selection of an allotment by or for any citizen of the Cherokee tribe as provided in this act, no contest shall be instituted against such selection, and as early thereafter as practicable patent shall issue therefor.

*Bartlesville Vitrified Brick Co. v. Barker*, 26 Okla. 144, 109 Pac. 72.

*Lynch v. Harris*, 124 Pac. 50, 33 Okla. 23, 36.

*United States v. Whitmire*, 188 Fed. 422.

**Selection of Allotments for Minors.**

SEC. 70. Allotments may be selected and homesteads designated for minors by the father or mother, if citizens, or by a guardian, or curator, or the administrator having charge of their estate, in the order named; and for prisoners, convicts, aged and infirm persons, and soldiers and sailors of the United States on duty outside of the Indian Territory, by duly appointed agents under power of attorney; and for incompetents by guardians, curators, or other suitable persons akin to them; but it shall be the duty of said Commission to see that said selections are made for the best interests of such parties.

*Lynch v. Harris*, 124 Pac. 50, 33 Okla. 23, 36.

**Improvements—Payment for by Allottee.**

SEC. 71. Any allottee taking as his allotment lands located around the Cherokee National Male Seminary, the Cherokee National Female Seminary, or Cherokee Orphan Asylum which have not been reserved from allotment as herein provided, and upon which buildings, fences, or other property of the Cherokee Nation are located, such buildings, fences or other property shall be appraised at the true value thereof and be paid for by the allottee taking such lands as his allotment, and the money to be paid into the Treasury of the United States to the credit of the Cherokee Nation.

**Leasing of Allotted Land—Limitations.**

SEC. 72. Cherokee citizens may rent their allotments when selected for a term not to exceed one year for grazing purposes only, and for a period not to exceed five years for agricultural purposes, but without any stipulation or obligation to renew the same; but leases for a period longer than one year for grazing purposes, and for a period longer than five years for agricultural purposes and for mineral purposes may also be made with the approval of the Secretary of the Interior and not otherwise. Any agreement or lease of any kind or character violative of this section shall be absolutely void and not susceptible of ratification in any manner, and no rule of estoppel shall ever prevent the assertion of its invalidity. Cattle grazed upon leased allotments shall not be liable to any tribal tax, but when cattle are introduced into the Cherokee Nation and grazed on lands not selected as allotments by citizens the Secretary of the Interior shall collect from the owners thereof a reasonable grazing tax for the benefit of the tribe, and section twenty-one hundred and seventeen of the Revised Statutes of the United States shall not hereafter apply to Cherokee lands.

Superior Oil & Gas Co. v. Mehlin, 25 Okla. 809, 108 Pac. 545.

Jennings v. Wood, 192 Fed. 507.

Barnsdall v. Owen, 200 Fed. 519.

Turner v. Seep, 167 Fed. 646, 179 Fed. 74.

Alluwee Oil Co. v. Shufflin, 32 Okla. 808, 124 Pac. 15.

**Inconsistent Laws.**

SEC. 73. The provisions of section thirteen of the act of Congress approved June twenty-eight, eighteen hundred and ninety-eight, entitled "An act for the protection of the people of the Indian Territory, and for other purposes," shall not apply to or in any manner affect the lands or other property of said tribe, and no act of Congress or treaty provision inconsistent with this agreement shall be in force in said nation except sections fourteen and twenty-seven of said last men-

tioned act, which shall continue in force as if this agreement had not been made.

In re Webb, 225 U. S. 663, 56 L. Ed. 1248.

**Act to Be Ratified Before Effective.**

SEC. 74. This act shall not take effect or be of any validity until ratified by a majority of the whole number of votes cast by the legal voters of the Cherokee Nation in the manner following:

**Election—Proclamation.**

SEC. 75. The principal chief shall, within ten days after the passage of this act by Congress, make public proclamation that the same shall be voted upon at a special election to be held for that purpose within thirty days thereafter, on a certain date therein named, and he shall appoint such officers and make such other provisions as may be necessary for holding such election. The votes cast at such election shall be forthwith duly certified as required by Cherokee law, and the votes shall be counted by the Cherokee national council, if then in session, and if not in session the principal chief shall convene an extraordinary session for the purpose, in the presence of a member of the Commission to the Five Civilized Tribes, and said member and the principal chief shall jointly make certificate thereof and proclamation of the result, and transmit the same to the President of the United States.

FURTHER ANNOTATIONS.

CHEROKEE TREATY.  
FURTHER ANNOTATIONS.

TIMBER AND STONE ACT.

Approved June 6, 1900.

(31 Stat. L. 660.)

**Sale of Regulated by Secretary of Interior.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Secretary of the Interior is authorized to prescribe rules and regulations for the procurement of timber and stone for such domestic and industrial purposes, including the construction, maintenance, and repair of railroads and other highways, to be used only in the Indian Territory, as in his judgment he shall deem necessary and proper, from lands belonging to either of the Five Civilized Tribes of Indians, and to fix the full value thereof to be paid therefor, and collect the same for the benefit of said tribes; and every person who unlawfully cuts, or aids, or is employed in unlawfully cutting, or wantonly destroys, or procures to be wantonly destroyed, any timber standing upon the land of either of said tribes, or sells or transports any of such timber or stone outside of the Indian Territory, contrary to the regulations prescribed by the Secretary, shall pay a fine of not more than five hundred dollars, or be imprisoned not more than twelve months, or both, in the discretion of the court trying the same.

## ACT OF CONGRESS

Approved January 21, 1903.

(32 Stat. L. 774.)

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE  
FOR THE USE OF TIMBER AND STONE FOR DOMESTIC  
AND INDUSTRIAL PURPOSES IN THE INDIAN  
TERRITORY."

Approved June 6, 1900.

**Right of Citizens to Sell Granted.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Act entitled "An Act to provide for the use of timber and stone for domestic and industrial purposes in the Indian Territory," approved June sixth, nineteen hundred, be amended so as to read as follows:

"That the Secretary of the Interior is authorized to prescribe rules and regulations for the procurement of timber and stone for domestic and industrial purposes, including the construction, maintenance, and repairs of railroads and other highways, to be used only in the Indian Territory, or upon any railroad outside of the said Territory which is part of any continuous line of railroad extending into the said Territory, from lands belonging to either of the Five Civilized Tribes, and to fix the full value thereof to be paid therefor and collect the same for the benefit of said tribes: Provided however, That nothing herein contained shall be construed to prevent allottees from disposing of timber and stone on their allotments, as provided in section sixteen of an Act entitled 'An Act for the protection of the people of the Indian Territory, and for other purposes,' approved June twenty-eighth, eighteen hundred and ninety-eight, from and after the allotment by the Commission to the Five Civilized Tribes.

**Unlawful Cutting of Timber Prohibited.**

"SECTION 2. That every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys, or procures to be wantonly destroyed, any timber standing upon the lands of either of said tribes contrary to the provisions of this Act and the regulations prescribed thereunder by the Secretary of the Interior, shall pay a fine of not more than five hundred dollars, or be imprisoned not more than twelve months, or both, in the discretion of the court trying the same."

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**RECORDING ACT**

Approved February 19, 1903.

(32 Stat. L. 841.)

**AN ACT PROVIDING FOR RECORD OF DEEDS AND OTHER  
CONVEYANCES AND INSTRUMENTS OF WRITING IN  
INDIAN TERRITORY AND FOR OTHER PURPOSES.**

**Arkansas Recording Law Adopted.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That chapter twenty-seven of the Digest of the Statutes of Arkansas, known as Mansfield's Digest of eighteen hundred and eighty-four, is hereby extended to the Indian Territory, so far as the same may be applicable and not inconsistent with any law of Congress: Provided, That the clerk or deputy clerk of the United States court of each of the courts of said Territory shall be ex officio recorder for his district and perform the duties required of recorder in the chapter aforesaid, and use the seal of such court in cases requiring a seal, and keep the records of such office at the office of said clerk or deputy clerk.

It shall be the duty of each clerk or deputy clerk of such court to record in the books provided for his office all deeds,

mortgages, deeds of trust, bonds, leases, covenants, defeasances, bills of sale, and other instruments of writing of or concerning lands, tenements, goods, or chattels; and where such instruments are for a period of time limited on the face of the instrument they shall be filed and indexed, if desired by the holder thereof, and such filing for the period of twelve months from the filing thereof shall have the same effect in law as if recorded at length. The fees for filing, indexing, and cross indexing such instruments shall be twenty-five cents, and for recording shall be as set forth in section thirty-two hundred and forty-three of Mansfield's Digest of eighteen hundred and eighty-four.

That the said clerk or deputy clerk of such court shall receive as compensation as such ex officio recorder for his district all fees received by him for recording instruments provided for in this Act, amounting to one thousand eight hundred dollars per annum or less; and all fees so received by him as aforesaid amounting to more than the sum of one thousand eight hundred dollars per annum shall be accounted to the Department of Justice, to be applied to the permanent school fund of the district in which said court is located.

Such instruments heretofore recorded with the clerk of any United States Court in Indian Territory shall not be required to be again recorded under this provision, but shall be transferred to the indexes without further cost, and such records heretofore made shall be of full force and effect, the same as if made under this statute.

That wherever in said chapter the word "county" occurs there shall be substituted therefor the word "district," and wherever the words "State" or "State of Arkansas" occur there shall be substituted therefor the words "Indian Territory," and wherever the words "clerk" or "recorder" occur there shall be substituted the words "clerk or deputy clerk of the United States court."

All acknowledgments of deeds of conveyance taken within the Indian Territory shall be taken before a clerk or deputy

clerk of any of the courts in said Territory, a United States commissioner, or a notary public appointed in and for said, Territory.

All instruments of writing the filing of which is provided for by law shall be recorded or filed in the office of the Clerk or deputy clerk at the place of holding court in the recording district where said property may be located, and which said recording districts are bounded as follows:

(The remainder of this act describes and defines twenty-five recording districts in the Indian Territory.)

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ACT OF CONGRESS

Approved March 11, 1904.

(33 Stat. L. 65.)

AN ACT AUTHORIZING THE SECRETARY OF THE INTERIOR TO  
GRANT RIGHT OF WAY FOR PIPE LINES THROUGH  
INDIAN LANDS.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Secretary of the Interior is hereby authorized and empowered to grant a right of way in the nature of an easement for the construction, operation, and maintenance of pipe lines for the conveyance of oil and gas through any Indian reservation, through any lands held by an Indian tribe or nation in the Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose in connection with the Indian service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation, upon the terms and conditions herein expressed. No such lines shall be constructed across Indian

lands, as above mentioned, until authority therefor has first been obtained from, and the maps of definite location of said lines approved by, the Secretary of the Interior: Provided, That the construction of lateral lines from the main pipe line establishing connection with oil and gas wells on the individual allotments of citizens may be constructed without securing authority from the Secretary of the Interior and without filing maps of definite location, when the consent of the allottee upon whose lands oil or gas wells may be located and of all other allottees through whose lands said lateral pipe lines may pass, has been obtained by the pipe line company: Provided further, That in case it is desired to run a pipe line under the line of any railroad, and satisfactory arrangements can not be made with the railroad company, then the question shall be referred to the Secretary of the Interior, who shall prescribe the terms and conditions under which the pipe line company shall be permitted to lay its lines under said railroad. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be subject to his final approval. And where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding five dollars for each ten miles of line so constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be lawfully assessed against them by either State, Territorial, or municipal authority. And incorporated cities and towns into and through which such pipe lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities, and nothing herein shall authorize the use of

such right of way except for pipe line, and then only so far as may be necessary for its construction, maintenance, and care: Provided, That the rights herein granted shall not extend beyond a period of twenty years: Provided further, That the Secretary of the Interior, at the expiration of said twenty years, may extend the right to maintain any pipe line constructed under this Act for another period not to exceed twenty years from the expiration of the first right, upon such terms and conditions as he may deem proper.

The right to alter, amend, or repeal this Act is expressly reserved.

Texas Company v. Henry, 126 Pac. 224.

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ACT OF CONGRESS

Approved April 28, 1904.

(33 Stat. L. 544.)

AN ACT TO AUTHORIZE THE SECRETARY OF THE INTERIOR  
TO ADD TO THE SEGREGATION OF COAL AND ASPHALT  
LANDS IN THE CHOCTAW AND CHICKASAW NATIONS,  
INDIAN TERRITORY, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE SENATE AND HOUSE OF  
REPRESENTATIVES OF THE UNITED STATES OF  
AMERICA IN CONGRESS ASSEMBLED, That the Sec-  
retary of the Interior is hereby authorized and empowered to  
segregate and reserve from allotment, and to cancel any fil-  
ings or applications that may heretofore have been made with  
a view to allotting the following described lands, situate in  
the Choctaw Nation, to-wit: The north half of the south  
half of the southeast quarter, and the northeast quarter of the  
southeast quarter of the southwest quarter of section nine;  
the north half of the south half of the south half of section  
ten; the north half of the south half of the south half of sec-

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tion eleven, and the north half of the south half of the southwest quarter of section twelve, all in township five north, range nineteen east, containing two hundred and fifty acres, more or less; and the northwest quarter of the southwest quarter of section eight, township five north, range nineteen east, and the southwest quarter of the northeast quarter of section seven, township five north, range nineteen east, containing eighty acres, more or less.

That the provisions of sections fifty-six to sixty-three, inclusive, of the Act of Congress approved July first, nineteen hundred and two, entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes, and for other purposes," be, and the same are hereby, made applicable to the lands above described, the same as if the said described lands had been made a part of the segregation, as contemplated by said sections fifty-six to sixty-three, inclusive, of said above Act approved July first, nineteen hundred and two: Provided. That the Secretary of the Interior may, in his discretion, add said lands to and make them a part of the coal and asphalt mining leases now in effect, and to which said lands above described are contiguous, the lands in each case to be added to and made a part of the lease to which they are adjacent and which they join, Government subdivisions being followed as nearly as possible: Provided further, That the holder or holders of the lease or leases to which such lands shall be added, shall, before the same are added, pay the Indian or Indians who have filed upon or applied for such lands as their allotments, or who are in possession thereof, the value of the improvements placed on the land, by said Indian or Indians, such value to be determined under the direction of the Secretary of the Interior: And Provided further, That said lands shall be sold as other leased coal and asphalt lands in the Choctaw and Chickasaw nations in the Indian Territory are sold.

That the Choctaw, Oklahoma and Gulf Railroad Company is hereby authorized and empowered to sublet, assign, trans-

fer, and set over the leases which it now has upon coal lands in Choctaw Nation, Indian Territory, or any of them. The assignees or sublessees of said Choctaw, Oklahoma and Gulf Railroad Company shall file good and sufficient bonds for the faithful performance of the terms of the original leases, to be approved by the Secretary of the Interior.

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ACT OF CONGRESS

Approved April 28, 1904.

(33 Stat. L. 573.)

AN ACT TO PROVIDE FOR ADDITIONAL UNITED STATES JUDGES  
IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES.

**Arkansas Laws to Extend to Estates of Citizens.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That there shall be appointed by the President, by and with the advice and consent of the Senate, four additional judges of the United States court in the Indian Territory, one for the northern district, one for the western district, one for the central district, and one for the southern district. And said judges shall have all the authority and exercise all the powers, perform like duties, and receive the same salary as other judges of said court, and shall each serve for a term of four years from date of appointment, unless said offices are sooner abolished by law. Neither the additional judges, nor their successors in office, shall be members of the court of appeals for the Indian Territory, but they shall hold such courts, in their respective districts, as may be directed by the court of appeals of the Indian Territory, or majority of the judges thereof in vacation: Provided, That none of said judges shall have power to appoint clerks of courts,

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United States commissioners, or United States constables in said districts, and hereafter at least three terms of court shall be held in each year, at each place of holding court in the Indian Territory, the times to be fixed in the manner now provided by law.

All the laws of Arkansas heretofore put in force in the Indian Territory are hereby continued and extended in their operation, so as to embrace all persons and estates in said Territory, whether Indian, freedmen, or otherwise, and full and complete jurisdiction is hereby conferred upon the district courts in said Territory in the settlements of all estates of decedents, the guardianships of minors and incompetents, whether Indians, freedmen, or otherwise. That the sum of twenty thousand dollars is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of salaries of the judges hereby authorized, the same to be immediately available.

In re Poff's Guardianship, 7 I. T. 59, 103 S. W. 765.

Hayes v. Barringer, 7 I. T. 697, 104 S. W. 937.

Hawkins v. Stevens, 21 Okla. 849, 97 Pac. 567.

In re Feland's Estate, 26 Okla. 448, 110 Pac. 730.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

Taylor v. Parker, 126 Pac. 573, 33 Okla. 199.

Morrison v. Burnette, 154 Fed. 617.

United States v. Shock, 187 Fed. 862.

Bledsoe v. Wortman, 129 Pac. 841.

Washington v. Miller, 129 Pac. 58.

ACT OF CONGRESS

Approved April 26, 1906.

(34 Stat. L. 137.)

AN ACT TO PROVIDE FOR THE FINAL DISPOSITION OF THE AFFAIRS OF THE FIVE CIVILIZED TRIBES IN THE INDIAN TERRITORY, AND FOR OTHER PURPOSES.

**Citizenship—Provisions for Enrollment.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That after the approval of this Act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive evidence as to the fact of such application; and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this Act, in which cases such motion shall be made within sixty days after the passage of this Act: Provided, That the Secretary of the Interior may enroll persons whose names appear upon any of the tribal rolls and for whom the records in charge of the Commissioner to the Five Civilized Tribes show application was made prior to December first, nineteen hundred and five, and which was not allowed solely because not made within the time prescribed by law.

**Enrollment of Children—Payment to Cherokees—Equalization of Creek Allotments—Completion of Rolls.**

SECTION 2. That for ninety days after approval hereof applications shall be received for enrollment of children who were

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minors living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek tribes, or have applications for enrollment pending at the approval hereof, and for the purpose of enrollment under this section illegitimate children shall take the status of the mother, and allotments shall be made to children so enrolled. If any citizen of the Cherokee tribe shall fail to receive the full quantity of land to which he is entitled as an allotment, he shall be paid out of any of the funds of such tribe a sum equal to twice the appraised value of the amount of land thus deficient. The provisions of section nine of the Creek agreement ratified by Act approved March first, nineteen hundred and one, authorizing the use of funds of the Creek tribe for equalizing allotments, are hereby restored and re-enacted, and after the expiration of nine months from the date of the original selection of an allotment of land in the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes, and after the expiration of six months from the passage of this Act as to allotments heretofore made, no contest shall be instituted against such allotment: Provided, That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date: Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided, That nothing herein shall apply to the intermarried whites in the Cherokee Nation, whose cases are now pending in the Supreme Court of the United States.

*Ligon v. Johnson*, 164 Fed. 670.

*Henry Gas Co. v. U. S.* 191 Fed. 132.

*Garfield v. Goldsby*, 211 U. S. 249, 52 L. Ed. 168.

*Fleming v. McCurtain*, 215 U. S. 56, 54 L. Ed. 88.

*Lowe v. Fisher*, 223 U. S. 95, 56 L. Ed. 364.

*Gritts v. Fisher*, 224 U. S. 640, 56 L. Ed. 928.

**Enrollment of Freedmen—Homesteads.**

SEC. 3. That the approved roll of Creek freedmen shall include only those persons whose names appear on the roll prepared by J. W. Dunn, under authority of the United States prior to March fourteenth, eighteen hundred and sixty-seven, and their descendants born since said roll was made, and those lawfully admitted to citizenship in the Creek Nation subsequent to the date of the preparation of said roll, and their descendants born since such admission, except such, if any, as have heretofore been enrolled and their enrollment approved by the Secretary of the Interior.

The roll of Cherokee freedmen shall include only such persons of African descent, either free colored or the slaves of Cherokee citizens and their descendants, who were actual personal bona fide residents of the Cherokee Nation August eleventh, eighteen hundred and sixty-six, or who actually returned and established such residence in the Cherokee Nation on or before February eleventh, eighteen hundred and sixty-seven; but this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes or its successor and has been adjudged entitled to enrollment by the Secretary of the Interior.

Lands allotted to freedmen of the Choctaw and Chickasaw tribes shall be considered "homesteads," and shall be subject to all the provisions of this or any other Act of Congress applicable to homesteads of citizens of the Choctaw and Chickasaw tribes.

*In re Davis' Estate*, 32 Okla. 209, 122 Pac. 547.

*Lowe v. Fisher*, 223 U. S. 95, 56 L. Ed. 364.

**Transfers from Freedmen to Indian Rolls Prohibited.**

SEC. 4. That no name shall be transferred from the approved freedmen, or any other approved rolls of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, respectively, to the roll of citizens by blood, unless the records in charge of the Commissioner to the Five Civilized Tribes show that

application for enrollment as a citizen by blood was made within the time prescribed by law by or for the party seeking the transfer, and said records shall be conclusive evidence as to the fact of such application, unless it be shown by documentary evidence that the Commission to the Five Civilized Tribes actually received such application within the time prescribed by law.

✓ **Patents to Issue in Name of Allottee—To Be Recorded.**

SEC. 5. That all patents or deeds to allottees in any of the Five Civilized Tribes to be hereafter issued shall issue in the name of the allottee, and if any such allottee shall die before such patent or deed becomes effective, the title to the lands described therein shall inure to and vest in his heirs, and in case any allottee shall die after restrictions have been removed, his property shall descend to his heirs or his lawful assigns, as if the patent or deed had issued to the allottee during his life, and all patents heretofore issued, where the allottee died before the same became effective, shall be given like effect; and all patents or deeds to allottees and other conveyances affecting lands of any of said tribes shall be recorded in the office of the Commissioner to the Five Civilized Tribes, and when so recorded shall convey legal title, and shall be delivered under the direction of the Secretary of the Interior to the party entitled to receive the same: Provided, The provisions of this section shall not affect any rights involved in contests pending before the Commissioner to the Five Civilized Tribes or the Department of the Interior at the date of the approval of this Act.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

Shulthis v. McDougal, 170 Fed. 529.

The 30,000 Land Suits, 199 Fed. 811.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

**Removal of Tribal Chiefs—Approval of Deeds on Failure of Chief to Execute.**

SEC. 6. That if the principal chief of the Choctaw, Cherokee, Creek, or Seminole tribe, or the governor of the Chickasaw

tribe shall refuse or neglect to perform the duties devolving upon him, he may be removed from office by the President of the United States, or if any such executive become permanently disabled, the office may be declared vacant by the President of the United States, who may fill any vacancy arising from removal, disability or death of the incumbent, by appointment of a citizen by blood of the tribe.


If any such executive shall fail, refuse or neglect, for thirty days after notice that any instrument is ready for his signature, to appear at a place to be designated by the Secretary of the Interior and execute the same, such instrument may be approved by the Secretary of the Interior without such execution, and when so approved and recorded shall convey legal title, and such approval shall be conclusive evidence that such executive or chief refused or neglected after notice to execute such instrument.

Provided, That the principal chief of the Seminole Nation is hereby authorized to execute the deeds to allottees in the Seminole Nation prior to the time when the Seminole government shall cease to exist.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

#### **Reservations of Choctaw Lands—Appraisal of Timber.**

SEC. 7. That the Secretary of the Interior, shall, by written order, within ninety days from the passage of this Act, segregate and reserve from allotment sections one, two, three, four five, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, the east half of section sixteen, and the northeast quarter of section six, in township nine south, range twenty-six east, and sections five, six, seven, eight, seventeen, eighteen, and the west half of section sixteen, in township nine south, range twenty-seven east, Choctaw Nation, Indian Territory, except such portions of said lands upon which substantial, permanent, and valuable improvements were erected and placed prior to the passage of this Act and not for speculation, but by members and freedmen of the tribes actually themselves and for



themselves for allotment purposes, and where such identical members or freedmen of said tribes now desire to select same as portions of their allotments, and the action of the Secretary of the Interior in making such segregation shall be conclusive. The Secretary of the Interior shall also cause to be estimated and appraised the standing pine timber on all of said land, and the land segregated shall not be allotted, except as hereinbefore provided, to any member or freedman of the Choctaw or Chickasaw tribes. Said segregated land and pine timber thereon shall be sold and disposed of at public auction, or by sealed bids for cash, under the direction of the Secretary of the Interior.

**Transfer of Land Office Records.**

SEC. 8. That the records of each of the land offices in the Indian Territory, should such office be hereafter discontinued, shall be transferred to and kept in the office of the clerk of the United States court in whose district said records are now located. The officer having custody of any of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, and the disposition of the land and other property of said tribes, upon proper application and payment of such fees as the Secretary of the Interior may prescribe, may make certified copies of such records, which shall be evidence equally with the originals thereof; but fees shall not be demanded for such authenticated copies as may be required by officers of any branch of the Government nor for such unverified copies as such officer, in his discretion, may deem proper to furnish. Such fees shall be paid to bonded officers or employees of the Government, designated by the Secretary of the Interior, and the same or so much thereof as may be necessary may be expended under the direction of the Secretary of the Interior for the purposes of this section, and any unexpended balance shall be deposited in the Treasury of the United States, as are other public moneys.

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**Claim vs. Mississippi Choctaws—Referred to Court of Claims.**

SEC. 9. The disbursements, in the sum of one hundred and eighty-six thousand dollars, to and on account of the loyal Seminole Indians, by James E. Jemkins, special agent appointed by the Secretary of the Interior, and by A. J. Brown as administrator de bonis non, under an Act of Congress approved May thirty-first, nineteen hundred, appropriating said sum, be, and the same are hereby, ratified and confirmed: Provided, That this shall not prevent any individual from bringing suit in his own behalf to recover any sum really due him.

That the Court of Claims is hereby authorized and directed to hear, consider, and adjudicate the claims against the Mississippi Choctaws of the estate of Charles F. Winton, deceased, his associates and assigns, for services rendered and expenses incurred in the matter of the claims of the Mississippi Choctaws to citizenship in the Choctaw Nation, and to render judgment thereon on the principle of quantum meruit, in such amounts as may appear equitable or justly due therefor, which judgment, if any, shall be paid from any funds now or hereafter due such Choctaws by the United States. Notice of such suit shall be served on the governor of the Choctaw Nation, and the Attorney-General shall appear and defend the said suit on behalf of said Choctaws.

**Secretary to Control Tribal Schools and School Funds.**

SEC. 10. That the Secretary of the Interior is hereby authorized and directed to assume control and direction of the schools in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, with the lands and all school property pertaining thereto, March fifth, nineteen hundred and six, and to conduct such schools under rules and regulations to be prescribed by him, retaining tribal educational officers, subject to dismissal by the Secretary of the Interior, and the present system so far as practicable, until such time as a public school system shall have been established under Territorial or State government, and proper provision made thereunder for the education of the

Indian children of said tribes, and he is hereby authorized and directed to set aside a sufficient amount of any funds, invested or otherwise, in the Treasury of the United States, belonging to said tribes, including the royalties on coal and asphalt in the Choctaw and Chickasaw nations, to defray all the necessary expenses of said schools, using, however, only such portion of said funds of each tribe as may be requisite for the schools of that tribe, not exceeding in any one year for the respective tribes the amount expended for the scholastic year ending June thirtieth, nineteen hundred and five; and he is further authorized and directed to use the remainder, if any, of the funds appropriated by the Act of Congress approved March third, nineteen hundred and five, "for the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations," unexpended March fourth, nineteen hundred and six, including such fees as have accrued or may hereafter accrue under the Act of Congress approved February nineteenth, nineteen hundred and three, Statutes at Large, volume thirty-two, page eight hundred and forty-one, which fees are hereby appropriated, in continuing such schools as may have been established, and in establishing such new schools as he may direct, and any of the tribal funds so set aside remaining unexpended when a public school system under a future State or Territorial government has been established, shall be distributed per capita among the citizens of the nations, in the same manner as other funds.

**Collection of Tribal Revenues—Tribal Taxes Abolished.**

SEC. 11. That all revenues of whatever character accruing to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, whether before or after dissolution of the tribal governments, shall, after the approval hereof, be collected by an officer appointed by the Secretary of the Interior under rules and regulations to be prescribed by him; and he shall cause to be paid all lawful claims against said tribes which may have been

contracted after July first, nineteen hundred and two, or for which warrants have been regularly issued, such payments to be made from any funds in the United States Treasury belonging to said tribes. All such claims arising before dissolution of the tribal governments shall be presented to the Secretary of the Interior within six months after such dissolution, and he shall make all rules and regulations necessary to carry this provision into effect and shall pay all expenses incident to the investigation of the validity of such claims or indebtedness out of the tribal funds: Provided, That all taxes accruing under tribal laws or regulations of the Secretary of the Interior shall be abolished from and after December thirty-first, nineteen hundred and five, but this provision shall not prevent the collection after that date nor after dissolution of the tribal government of all such taxes due up to and including December thirty-first, nineteen hundred and five, and all such taxes levied and collected after the thirty-first day of December, nineteen hundred and five, shall be refunded.

Upon dissolution of the tribal governments, every officer, member, or representative of said tribes, respectively, having in his possession, custody, or control any money or other property of any tribe shall make full and true account and report thereof to the Secretary of the Interior, and shall pay all money of the tribe in his possession, custody, or control, and shall deliver all other tribal property so held by him, to the Secretary of the Interior, and if any person shall wilfully and fraudulently fail to account for all such money and property so held by him, or to pay and deliver the same as herein provided for sixty days from dissolution of the tribal government, he shall be deemed guilty of embezzlement and upon conviction thereof shall be punished by a fine of not exceeding five thousand dollars or by imprisonment not exceeding five years, or by both such fine and imprisonment, according to the laws of the United States relating to such offense, and shall be liable to civil proceedings to be prosecuted in behalf of and in the name of the tribe for the amount or value of the money or property so withheld.

SEC. 12. That the Secretary of the Interior is authorized to sell, upon such terms and under such rules and regulations as he may prescribe, all lots in towns in the Choctaw and Chickasaw nations reserved from appraisement and sale for use in connection with the operation of coal and asphalt mining leases or for the occupancy of miners actually engaged in working for lessees operating coal and asphalt mines, the proceeds arising from such sale to be deposited in the Treasury of the United States as are other funds of said tribes.

If the purchaser of any town lot sold under the provisions of law regarding the sale of town sites in the Choctaw, Chickasaw, Cherokee, Creek, or Seminole nations fail for sixty days after the approval hereof to pay the purchase price or any installment thereof then due, or shall fail for thirty days to pay the purchase price or any installment thereof falling due hereafter, he shall forfeit all rights under his purchase, together with all money paid thereunder, and the Secretary of the Interior may cause the lots upon which such forfeiture is made to be resold at public auction for cash, under such rules and regulations as he may prescribe. All municipal corporations in the Indian Territory are hereby authorized to vacate streets and alleys, or parts thereof, and said streets and alleys, when vacated, shall revert to and become the property of the abutting property owners.

#### **Coal and Asphalt Lands Reserved from Sale.**

SEC. 13. That all coal and asphalt lands whether leased or unleased shall be reserved from sale under this Act until the existing leases for coal and asphalt lands shall have expired or until such time as may be otherwise provided by law.

#### **Conveyances of Land Reserved from Allotment—Murrow's Indian Orphans' Home.**

SEC. 14. That the lands in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole nations reserved from allotment or sale under any Act of Congress for the use or benefit of any

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person, corporation, or organization shall be conveyed to the person, corporation, or organization entitled thereto: Provided, That if any tract or parcel thus reserved shall before conveyance thereof be abandoned for the use for which it was reserved by the party in whose interest the reservation was made, such tract or parcel shall revert to the tribe and be disposed of as other surplus lands thereof: Provided further, That this section shall not apply to land reserved from allotment because of the right of any railroad or railway company therein in the nature of an easement for right of way, depot, station grounds, water stations, stock yards or other uses connected with the maintenance and operation of such company's railroad, title to which tracts may be acquired by the railroad or railway company under rules and regulations to be prescribed by the Secretary of the Interior at a valuation to be determined by him; but if any such company shall fail to make payment within the time prescribed by the regulations or shall cease to use such land for the purpose for which it was reserved, title thereto shall thereupon vest in the owner of the legal subdivision of which the land so abandoned is a part, except lands within the municipality the title to which, upon abandonment, shall vest in such municipality.

The principal chief of the Choctaw Nation and the governor of the Chickasaw Nation are, with the approval of the Secretary of the Interior, hereby authorized and directed to issue patents to the Murrow Indian Orphans' Home, a corporation of Atoka, Indian Territory, in all cases where tracts have been allotted under the direction of the Secretary of the Interior for the purpose of allowing the allottees to donate the tract so allotted to said Murrow Indian Orphans' Home.

In all cases where enrolled citizens of either the Choctaw or Chickasaw tribe have taken their homestead and surplus allotment and have remaining over an unallotted right to less than ten dollars on the basis of the allotment value of said lands, such unallotted right may be conveyed by the owners thereof to the Murrow Indian Orphans' Home aforesaid; and

whenever said conveyed rights shall amount in the aggregate to as much as ten acres of average allottable land, land to represent the same shall be allotted to the said Murrow Indian Orphans' Home, and certificate and patent shall issue therefor to said Murrow Indian Orphans' Home.

And there is hereby authorized to be conveyed to said Murrow Indian Orphans' Home, in the manner hereinbefore prescribed for the conveyance of land, the following described lands in the Choctaw and Chickasaw nations, to-wit: Sections eighteen and nineteen in township two north, range twelve east; the south half of the northeast quarter, the northeast quarter of the northeast quarter, the south half of the northwest quarter of the northeast quarter, the south half of the southeast quarter, the northeast quarter of the southeast quarter, the south half of the northwest quarter of the southeast quarter, the northeast quarter of the northwest quarter of the southeast quarter, the northeast quarter of the southeast quarter of the southwest quarter, and the northwest quarter of the northwest quarter of section twenty-four, and the northwest quarter of the southeast quarter, the north half of the southwest quarter of the southeast quarter, the south half of the southwest quarter of the southwest quarter, the northeast quarter of the southwest quarter of the southwest quarter, and the southeast quarter of the northwest quarter of the southwest quarter of section twenty-three, and the southwest quarter of the southwest quarter of the southeast quarter of section twenty-six, and the southeast quarter of the northwest quarter of the northwest quarter, the south half of the northeast quarter of the northwest quarter, the northeast quarter of the northeast quarter of the northwest quarter, and the east half of the southeast quarter of the northwest quarter of section twenty-five, all in township two north, range eleven east, containing one thousand seven hundred and ninety acres, as shown by the Government survey, for the purpose of the said Home.

**Tribal Property to Be Sold—Proceeds—Purchase by Municipalities.**

SEC. 15. The Secretary of the Interior shall take possession of all buildings now or heretofore used for governmental, school, and other tribal purposes, together with the furniture therein and the land appertaining thereto, and appraise and sell the same at such time and under such rules and regulations as he may prescribe, and deposit the proceeds, less expenses incident to the appraisal and sale, in the Treasury of the United States to the credit of the respective tribes: Provided, That in the event said lands are embraced within the geographical limits of a State or Territory of the United States such State or Territory or any county or municipality therein shall be allowed one year from date of establishment of said State or Territory within which to purchase any such lands and improvements within their respective limits at not less than the appraised value. Conveyances of lands disposed of under this section shall be executed, recorded, and delivered in like manner and with like effect as herein provided for other conveyances.

Chickasaw p. 317

**Unallotted Lands to Be Sold—Preference Right of Purchase to Freedmen.**

SEC. 16. That when allotments as provided by this and other Acts of Congress have been made to all members and freedmen of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, the residue of lands in each of said nations not reserved or otherwise disposed of shall be sold by the Secretary of the Interior under rules and regulations to be prescribed by him and the proceeds of such sales deposited in the United States Treasury to the credit of the respective tribes. In the disposition of the unallotted lands of the Choctaw and Chickasaw nations each Choctaw and Chickasaw freedman shall be entitled to a preference right, under such rules and regulations as the Secretary of the Interior may prescribe, to purchase at the appraised value enough land to equal with that

already allotted to him forty acres in area. If any such purchaser fails to make payment within the time prescribed by said rules and regulations, then such tract or parcel of land shall revert to the said Indian tribes and be sold as other surplus lands thereof. The Secretary of the Interior is hereby authorized to sell, whenever in his judgment it may be desirable, any of the unallotted land in the Choctaw and Chickasaw nations, which is not principally valuable for mining, agricultural, or timber purposes, in tracts of not exceeding six hundred and forty acres to any one person, for a fair and reasonable price, not less than the present appraised value. Conveyances of lands sold under the provisions of this section shall be executed, recorded, and delivered in like manner and with like effect as herein provided for other conveyances: Provided further, That agricultural lands shall be sold in tracts of not exceeding one hundred and sixty acres to any one person.

#### **Per Capita Distribution of Tribal Funds.**

SEC. 17. That when the unallotted lands and other property belonging to the Choctaw, Chickasaw, Cherokee, Creek; and Seminole tribes of Indians have been sold and the moneys arising from such sales or from any other source whatever have been paid into the United States Treasury to the credit of said tribes, respectively, and when all the just charges against the funds of the respective tribes have been deducted therefrom, any remaining funds shall be distributed per capita to the members then living and the heirs of deceased members whose names appear upon the finally approved rolls of the respective tribes, such distribution to be made under rules and regulations to be prescribed by the Secretary of the Interior.

#### **Secretary to Maintain Suits for Tribal Funds.**

SEC. 18. That the Secretary of the Interior is hereby authorized to bring suit in the name of the United States, for the use of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, respectively, either before or after the dissolution

of the tribal governments, for the collection of any moneys or recovery of any land claimed by any of said tribes, whether such claims shall arise prior to or after the dissolution of the tribal governments, and the United States courts in Indian Territory are hereby given jurisdiction to try and determine all such suits, and the Secretary of the Interior is authorized to pay from the funds of the tribe interested any costs and necessary expenses incurred in maintaining and prosecuting such suits: Provided, That proceedings to which any of said tribes is a party pending before any court or tribunal at the date of dissolution of the tribal governments shall not be there-  
by abated or in anywise affected, but shall proceed to final disposition.

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Where suit is now pending, or may hereafter be filed in any United States court in the Indian Territory, by or on behalf of any one or more of the Five Civilized Tribes to recover moneys claimed to be due and owing to such tribe, the party defendants to such suit shall have the right to set up and have adjudicated any claim it may have against such tribe; and any balance that may be found due by any tribe or tribes shall be paid by the Treasurer of the United States out of any funds of such tribe or tribes upon the filing of the decree of the court with him.

U. S. v. Rea-Reed Mill & Elevator Co., 171 Fed. 501.

**Restrictions Upon Alienation Extended—Leases of Homesteads Prohibited—Lands Subject to Taxation.**

SEC. 19. That no full-blood Indian of the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this Act, unless such restriction shall, prior to the expiration of said period, be removed by Act of Congress; and for all purposes the quantum of Indian blood possessed by any member of said tribes shall be determined by the rolls of citizens of said tribes approved

by the Secretary of the Interior: Provided however, That such full-blood Indians of any of said tribes may lease any lands other than homesteads for more than one year under such rules and regulations as may be prescribed by the Secretary of the Interior; and in case of the inability of any full-blood owner of a homestead, on account of infirmity or age, to work or farm his homestead, the Secretary of the Interior, upon proof of such inability, may authorize the leasing of such homestead under such rules and regulations: Provided further, That conveyances heretofore made by members of any of the Five Civilized Tribes subsequent to the selection of allotment and subsequent to removal of restriction, where patents thereafter issue, shall not be deemed or held invalid solely because said conveyances were made prior to issuance and recording or delivery of patent or deed; but this shall not be held or construed as affecting the validity or invalidity of any such conveyance, except as hereinbefore provided; and every deed executed before, or for the making of which a contract or agreement was entered into before the removal of restrictions, be and the same is hereby, declared void: Provided further, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands shall be exempt from taxation as long as the title remains in the original allottee.

Godfrey v. Iowa Land & Trust Co., 21 Okla. 293, 95 Pac. 792.

Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602.

McWilliams Investment Co. v. Livingston, 22 Okla. 884, 98 Pac. 914.

Simmons v. Whittington, 27 Okla. 356, 112 Pac. 1018.

Groom v. Wright, 30 Okla. 652, 121 Pac. 215.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

Stout v. Simpson, 124 Pac. 754.

Joiner v. Ardmore Loan & Trust Co., 124 Pac. 1073, 33 Okla. 206.

U. S. v. Comet Oil & Gas Co., 187 Fed. 674.

United States v. Shock, 187 Fed. 862.

Frame v. Bivens, 189 Fed. 785.

Muskrat v. U. S., 219 U. S. 346, 55 L. Ed. 246.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

Heckman v. U. S. 224 U. S. 413, 56 L. Ed. 820.

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Mullen v. U. S. 224 U. S. 448, 56 L. Ed. 834.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

**Leases by Full Bloods—Minor Leases—Leases to Be Recorded.**

SEC. 20. That after the approval of this Act all leases and rental contracts, except leases and rental contracts for not exceeding one year for agricultural purposes for lands other than homesteads, of full-blood allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes shall be in writing and subject to approval by the Secretary of the Interior and shall be absolutely void and of no effect without such approval: Provided, That allotments of minors and incompetents may be rented or leased under order of the proper court: Provided further, That all leases entered into for a period of more than one year shall be recorded in conformity to the law applicable to recording instruments now in force in said Indian Territory.

Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602.

Groom v. Wright, 30 Okla. 652, 121 Pac. 215.

Chapman v. Siler, 30 Okla. 714, 120 Pac. 608.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

Alluwee Oil Co. v. Shufflin, 32 Okla. 808, 124 Pac. 15.

Stout v. Simpson, 124 Pac. 754.

Cowles v. Lee, 128 Pac. 688.

Morrison v. Burnette, 154 Fed. 617.

U. S. v. Comet Oil & Gas Co., 187 Fed. 674.

United States v. Shock, 187 Fed. 862.

Jennings v. Wood, 192 Fed. 507.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

**Lands of Allottees Dying Without Heirs to Revert—Mississippi Choctaws.**

SEC. 21. That if any allottee of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes die intestate without widow, heir or heirs, or surviving spouse, seized of all or any portion of his allotment prior to the final distribution of the tribal property, and such fact shall be known by the Secretary

of the Interior, the lands allotted to him shall revert to the tribe and be disposed of as herein provided for surplus lands; but if the death of such allottee be not known by the Secretary of the Interior before final distribution of the tribal property, the land shall escheat to and vest in such State or Territory as may be formed to include said lands. That heirs of deceased Mississippi Choctaws who died before making proof of removal to and settlement in the Choctaw country and within the period prescribed by law for making such proof may within sixty days from the passage of this Act appear before the Commissioner to the Five Civilized Tribes and make such proof as would be required if made by such deceased Mississippi Choctaws; and the decision of the Commissioner to the Five Civilized Tribes shall be final therein, and no appeal therefrom shall be allowed.

#### **Conveyance of Inherited Lands.**

SEC. 22. That the adult heir of any deceased Indian of either of the Five Civilized Tribes whose selection has been made, or to whom a deed or patent has been issued for his or her share of the land of the tribe to which he or she belongs or belonged, may sell and convey the lands inherited from such decedent; and if there be both adult and minor heirs of such decedent, then such minors may join in a sale of such lands by a guardian duly appointed by the proper United States court for the Indian Territory. And in case of the organization of a State or Territory, then by a proper court of the county in which said minor or minors may reside or in which said real estate is situated, upon an order of such court made upon petition filed by guardian. All conveyances made under this provision by heirs who are full-blood Indians are to be subject to the approval of the Secretary of the Interior, under such rules and regulations as he may prescribe.

Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602, 221 U. S. 286, 55 L. Ed. 738.

Jefferson v. Winkler, 26 Okla. 654, 110 Pac. 755.

*Sanders v. Sanders*, 28 Okla. 59, 118 Pac. 338.  
*MaHarry v. Eatman*, 29 Okla. 46, 116 Pac. 935.  
*Wilson v. Morton*, 29 Okla. 745, 119 Pac. 213.  
*Skelton v. Dill*, 30 Okla. 278, 119 Pac. 267.  
*In re Davis' Estate*, 32 Okla. 209, 122 Pac. 547.  
*Parkinson v. Skelton*, 128 Pac. 131, 33 Okla. 813.  
*Shulthis v. McDougal*, 162 Fed. 331, 170 Fed. 529, 225 U. S. 561,  
 56 L. Ed. 1205.  
*Harris v. Gale*, 188 Fed. 712.  
*Heckman v. U. S.*, 224 U. S. 413, 56 L. Ed. 820.

### **Limitation on Right of Disposition by Will.**

SEC. 23. Every person of lawful age and sound mind may by last will and testament devise and bequeath all of his estate, real and personal, and all interest therein: Provided, That no will of a full-blood Indian devising real estate shall be valid, if such last will and testament disinherits the parent, wife, spouse, or children of such full-blood Indian, unless acknowledged before and approved by a judge of the United States court for the Indian Territory, or a United States Commissioner.

*In re Davis' Estate*, 32 Okla. 209, 122 Pac. 547.  
*Proctor v. Harrison*, 125 Pac. 479.  
*United States v. Shock*, 187 Fed. 862.

### **Roads to Be Established Along Section Lines.**

SEC. 24. That in the Choctaw, Chickasaw, and Seminole nations public highways or roads two rods in width, being one rod on each side of the section line, may be established on all section lines; and all allottees, purchasers, and others shall take title to such land subject to this provision, and if buildings or other improvements are damaged in consequence of the establishment of such public highways or roads, such damages accruing prior to the inauguration of a State government shall be determined under the direction of the Secretary of the Interior and be paid for from the funds of said tribes, respectively.

All expenses incident to the establishment of public highways or roads in the Creek, Cherokee, Choctaw, Chickasaw, and Seminole nations, including clerical hire, per diem, salary, and expenses of viewers, appraisers, and others, shall be paid under the direction of the Secretary of the Interior from the funds of the tribe or nation in which such public highways or roads are established. Any person, firm, or corporation obstructing any public highway or road, and who shall fail, neglect, or refuse for a period of ten days after notice to remove or cause to be removed any and all obstructions from such public highway or road, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding ten dollars per day for each and every day in excess of said ten days which said obstruction is permitted to remain: Provided, however, That notice of the establishment of public highways or roads need not be given to allottees or others, except in cases where such public highways or roads are obstructed, and every person obstructing any such public highway or road, as aforesaid, shall also be liable in a civil action for all damages sustained by any person who has in any manner whatever been damaged by reason of such obstruction.

Mills v. Glasscock, 26 Okla. 123, 110 Pac. 377.

Good v. Keel, 29 Okla. 325, 116 Pac. 777.

#### **Grant of Right of Eminent Domain.**

SEC. 25. That any light, or power company doing business within the limits of the Indian Territory, in compliance with the laws of the United States that are now or may be in force therein, be, and the same are hereby, invested and empowered with the right of locating, constructing, owning, operating, using, and maintaining canals, reservoirs, auxiliary steam works, and a dam or dams across any non-navigable stream within the limits of said Indian Territory, for the purpose of obtaining a sufficient supply of water to manufacture and generate water, electric, or other power, light, and heat and to utilize and transmit and distribute such power, light, and heat

to other places for its own use or other individuals or corporations, and the right of locating, constructing, owning, operating, equipping, using, and maintaining the necessary pole lines and conduits for the purpose of transmitting and distributing such power, light, and heat to other places within the limits of said Indian Territory.

That the right to locate, construct, own, operate, use, and maintain such dams, canals, reservoirs, auxiliary steam works, pole lines, and conduits in or through the Indian Territory, together with the right to acquire, by condemnation, purchase or agreement between the parties, such land as it may deem necessary for the locating, constructing, owning, operating, using, and maintaining of such dams, canals, reservoirs, auxiliary steam works, pole lines, and conduits in or through any land held by any Indian tribe or nation, person, individual, corporation, or municipality in said Indian Territory, or in or through any lands in said Indian Territory which have been or may hereafter be allotted in severalty to any individual Indian or other person under any law or treaty, whether the same have or have not been conveyed to the allottee, with full power of alienation, is hereby granted to any company complying with the provisions of this Act: Provided, That the purchase from and agreements with individual Indians, where the right of alienation has not theretofore been granted by law, shall be subject to approval by the Secretary of the Interior.

In case of the failure of any light, or power company to make amicable settlement with any individual owner, occupant, allottee, tribe, nation, corporation, or municipality for any lands or improvements sought to be condemned or appropriated under this Act all compensation and damages to be paid to the dissenting individual owner, occupant, allottee, tribe, nation, corporation, or municipality by reason of the appropriation and condemnation of said lands and improvements shall be determined as provided in sections fifteen and seventeen of an Act of Congress entitled "An act to grant a right of way through Oklahoma Territory and the Indian Ter-

ritory to the Enid and Anadarko Railway Company, and for other purpose," approved February twenty-eighth, nineteen hundred and two (Public Numbered Twenty-six), and all such proceedings hereunder shall conform to said sections, except that sections three and four of said Act shall have no application, and except that hereafter the plats required to be filed by said Act shall be filed with the Secretary of the Interior and with the Commissioner to the Five Civilized Tribes, and where the words "Principal Chief or Governor" of any tribe or nation occur in said Act, for the purpose of this Act there is inserted the words Commissioner to the Five Civilized Tribes. Whenever any such dam or dams, canals, reservoirs and auxiliary steam works, pole lines and conduits are to be constructed within the limits of any incorporated city or town in the Indian Territory, the municipal authorities of such city or town shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such cities and towns: Provided, That all rights granted hereunder shall be subject to the control of the future Territory or State within which the Indian Territory may be situated.

**Street Improvements May Be Built—Paid for by Special Assessments.**

SEC. 26. That in addition to the powers now conferred by law, all municipalities in the Indian Territory having a population of over two thousand to be determined by the last census taken under any provision of law or ordinance of the council of such municipality, are hereby authorized and empowered to order improvements of the streets or alleys or such parts thereof as may be included in an ordinance or order of the common council with the consent of a majority of the property owners whose property as herein provided is liable to assessment therefor for the proposed improvements; and said council is empowered and authorized to make assessments and levy taxes with the consent of a majority of the property owners

whose property is assessed, for the purpose of grading, paving, macadamizing, curbing, or guttering streets and alleys, or building sidewalks upon and along any street, roadway or alley within the limits of such municipality, and the cost of such grading, paving, macadamizing, curbing, guttering or sidewalk constructed, or other improvements under authority of this section, shall be so assessed against the abutting property as to require each parcel of land to bear the cost of such grading, paving, macadamizing, curbing, guttering or sidewalk, as far as it abuts thereon, and in the case of streets or alleys to the center thereof; and the cost of street intersections or crossings may be borne by the city or apportioned to the quarter blocks abutting thereon upon the same basis. The special assessments provided for by this section and the amount to be charged against each lot or parcel of land shall be fixed by the city council or under its authority and shall become a lien on such abutting property, which may be enforced as other taxes are enforced under the laws in force in the Indian Territory. The total amount charged against any tract or parcel of land shall not exceed twenty per centum of its assessed value, and there shall not be required to be paid thereon exceeding one per centum per annum on the assessed value and interest at six per centum on the deferred payments.

For the purpose of paying for such improvements the city council of such municipality is hereby authorized to issue improvement script or certificates for the amount due for such improvements, said script or certificates to be payable in annual installments and to bear interest from date at the rate of six per centum per annum, but no improvement script shall be issued or sold for less than its par value. All of said municipalities are hereby authorized to pass all ordinances necessary to carry into effect the above provisions and for the purpose of doing so many divide such municipality, into improvement districts.

That the tangible property of railroad corporations (exclusive of rolling stock) located within the corporate limits of

incorporated cities and towns in the Indian Territory shall be assessed and taxed in proportion to its value the same as other property is assessed and taxed in such incorporated cities and towns; and all such city or town councils are hereby empowered to pass such ordinances as may be necessary for the assessment, equalization, levy and collection, annually, of a tax on all property except as herein stated within the corporate limits and for carrying the same into effect: Provided, That should any person or corporation feel aggrieved by any assessment of property in the Indian Territory, an appeal from such assessment may be taken within sixty days by original petition to be filed in United States court in the district in which such city or town is located, and the question of the amount and legality of such assessment, and the validity of the ordinance under which such assessment is made may be determined by such court and the costs of such proceeding shall be taxed and apportioned between the parties as the court shall find to be just and equitable.

**Tribal Lands to Be Held in Trust by United States.**

SEC. 27. That the lands belonging to the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, upon the dissolution of said tribes, shall not become public lands nor property of the United States, but shall be held in trust by the United States for the use and benefit of the Indians respectively comprising each of said tribes, and their heirs as the same shall appear by the rolls as finally concluded as heretofore and hereinafter provided for: Provided, That nothing herein contained shall interfere with any allotments heretofore or hereafter made or to be made under the provisions of this or any other Act of Congress.

**Tribal Existence Continued—Approval of Contracts.**

SEC. 28. That the tribal existence and present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations are hereby continued in full force and effect for all purposes authorized by law, until otherwise

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provided by law, but the tribal council or legislature in any of said tribes or nations shall not be in session for a longer period than thirty days in any one year: Provided, That no act, ordinance, or resolution (except resolutions of adjournment) of the tribal council or legislature of any of said tribes or nations shall be of any validity until approved by the President of the United States: Provided further, That no contract involving the payment or expenditure of any money or affecting any property belonging to any of said tribes or nations made by them or any of them or by any officer thereof, shall be of any validity until approved by the President of the United States.

United States Express Co. v. Friedman, 191 Fed. 673.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

#### **Repeal.**

SEC. 29. That all Acts and parts of Acts inconsistent with the provisions of this Act be, and the same are hereby, repealed.

Morrison v. Burnette, 154 Fed. 617.

The 30,000 Land Suits, 199 Fed. 811.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

FURTHER ANNOTATIONS.

ACT OF APRIL 26, 1906.

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FURTHER ANNOTATIONS.

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258 TRIBAL EXISTENCE EXTENDED—INTERMARRIAGES.

ACT OF CONGRESS

Approved March 2, 1906.

(34 Stat. L. 822.)

JOINT RESOLUTION EXTENDING THE TRIBAL EXISTENCE AND  
GOVERNMENT OF THE FIVE CIVILIZED TRIBES OF  
INDIANS IN THE INDIAN TERRITORY.

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the tribal existence and present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations of Indians in the Indian Territory are hereby continued in full force and effect for all purposes under existing laws until all property of such tribes, or the proceeds thereof, shall be distributed among the individual members of said tribes unless hereafter otherwise provided by law.

Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

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ACT OF CONGRESS

Approved March 2, 1907.

(34 Stat. L. 1220.)

AN ACT FOR THE RELIEF OF CERTAIN WHITE PERSONS WHO  
INTERMARRIED WITH CHEROKEE CITIZENS.

**Intermarried Citizens to Receive Compensation for Improvements.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That for sixty days after allotment but in no case less than sixty days after

the approval of this Act white persons who intermarried with Cherokee citizens prior to December sixteenth, eighteen hundred and ninety-five, and made permanent and valuable improvements on lands belonging to the Cherokee Nation prior to the decision of the Supreme Court of the United States in the case of Daniel Red Bird, the Cherokee Nation, and others, against The United States (Two hundred and third United States, page seventy-six), shall have the right to sell such improvements to citizens of the Cherokee Nation entitled to select allotments at a valuation to be approved by an official to be designated by the Secretary of the Interior for that purpose; and the vendor shall have a lien on the rents and profits of the land on which the improvements are located for the purchase money remaining unpaid and shall have the right to enforce such lien in any court of competent jurisdiction: Provided, That where citizens of the Cherokee Nation entitled to allotments have heretofore applied for lands on which intermarried white persons own improvements, such citizens entitled to allotments shall have the prior right to purchase said improvements as herein provided.

*Boudinot v. Morris*, 28 Okla. 768, 110 Pac. 894.

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ACT OF CONGRESS

Of May 27, 1908.

(35 Stat. L. 312.)

AN ACT FOR THE REMOVAL OF RESTRICTIONS FROM PART OF  
THE LANDS OF ALLOTTEES OF THE FIVE CIVILIZED  
TRIBES, AND FOR OTHER PURPOSES.

**Status of Lands—Restrictions on Alienation Removed—Restrictions Continued—Removal by Secretary.**

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That from and

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after sixty days from the date of this Act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads of said allottees enrolled as intermarried whites, as freedmen, and as mixed-blood Indians having less than half Indian blood including minors shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half and less than three-quarters Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood, including minors of such degrees of blood, and all allotted lands of enrolled full-bloods, and enrolled mixed-bloods of three-quarters or more Indian blood, including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April twenty-sixth, nineteen hundred and thirty-one, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. ) The Secretary of the Interior shall not be prohibited by this Act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this Act. No restriction of alienation shall be construed to prevent the exercise of the right of eminent domain in condemning rights of way for public purposes over allotted lands, and for such purposes sections thirteen to twenty-three inclusive, of an act entitled "An act to grant the right of way through Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," approved February twenty-eighth, nineteen hundred and two (Thirty-second Statutes at Large, page forty-three), are hereby continued in force in the State of Oklahoma.

Jefferson v. Winkler, 26 Okla. 653, 110 Pac. 755.  
 Gleason v. Wood, 28 Okla. 502, 114 Pac. 703.  
 MaHarry v. Eatman, 29 Okla. 46, 116 Pac. 935.  
 Kirkpatrick v. Burgess, 29 Okla. 121, 116 Pac. 764.  
 Yarbrough v. Spaulding, 31 Okla. 806, 123 Pac. 843.  
 In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.  
 Simmons v. Mullen, 122 Pac. 518, 33 Okla. 184.  
 Texas Co. v. Henry, 126 Pac. 224.  
 United States v. Allen, 171 Fed. 907, 179 Fed. 13,  
 Pettes v. Brower, 184 Fed. 342.  
 United States v. Shock, 187 Fed. 870.  
 Henry Gas. Co. v. United States, 191 Fed. 132.  
 Bell v. Cook, 192 Fed. 597.  
 Truskett v. Closser, 198 Fed. 835.  
 Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 820.  
 Choate v. Trapp, 224 U. S. 665, 56 L. Ed. 941.

**Leases of Allotted Lands—Mineral Leases to Be Approved by  
 Secretary—Leases of Lands of Minors.**

SECTION 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee if an adult, or by guardian or curator under order of the proper probate court if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: Provided, That leases of restricted lands for oil, gas or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years, may be made, with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: And provided further, That the jurisdiction of the probate courts of the State of Oklahoma over lands of minors and incompetents shall be subject to the foregoing provisions, and the term minor or minors, as used in this Act, shall include all males under the age of twenty-one years and all females under the age of eighteen years.

Jefferson v. Winkler, 26 Okla. 653, 110 Pac. 755.  
 Kirkpatrick v. Burgess, 29 Okla. 121, 116 Pac. 764.

Yarbrough v. Spaulding, 31 Okla. 806, 123 Pac. 843.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

Gill v. Haggerty, 32 Okla. 407, 122 Pac. 641.

Bell v. Cook, 192 Fed. 597.

Truskett v. Closser, 198 Fed. 835.

Alluwe Oil Co. v. Shufflin, 32 Okla. 808, 124 Pac. 15.

Barnsdall v. Owen, 200 Fed. 519.

**Rolls Conclusive Evidence of Age and Quantum of Indian Blood—  
Status of Prior Leases.**

SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen or freedman of said tribes and of no other persons to determine questions arising under this Act and the enrollment records of the commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman.

That no oil, gas, or other mineral lease entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall be rendered invalid by this Act, but the same shall be subject to the approval of the Secretary of the Interior as if this Act had not been passed: Provided, That the owner or owners of any allotted land from which restrictions are removed by this Act, or have been removed by previous Acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any Act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.

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Warren v. Canard, 30 Okla. 514, 120 Pac. 599.  
Yarbrough v. Spaulding, 31 Okla. 806, 123 Pac. 843.  
Williams v. Joins, 126 Pac. 1013.  
Campbell v. McSpadden, 127 Pac. 854.  
Bell v. Cook, 192 Fed. 597.  
Hegler v. Faulkner, 153 U. S. 107, 38 L. Ed. 653.  
Lawless v. Raddis, 129 Pac. 711.

**Unrestricted Lands Subject to Taxation—Exemption from Prior Claims.**

SEC. 4. That all land from which restrictions have been or shall be removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: Provided, That allotted lands shall not be subjected or held liable, to any form of personal claim, or demand, against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law.

Gleason v. Wood, 28 Okla. 502, 114 Pac. 703, 224 U. S. 679, 56 L. Ed. 947.  
Choate v. Trapp, 28 Okla. 517, 114 Pac. 709, 224 U. S. 665, 56 L. Ed. 941.  
Alexander v. Rainey, 28 Okla. 518, 114 Pac. 710.  
Nelson v. Wood, 122 Pac. 1103.  
Whitmire v. Trapp, 126 Pac. 578, 33 Okla. 429.  
Weilip v. Audrain, 128 Pac. 254.  
Bell v. Cook, 192 Fed. 597.  
Truskett v. Closser, 198 Fed. 835.  
United States v. Shock, 187 Fed. 862, 870.  
English v. Richardson, 224 U. S. 680, 56 L. Ed. 949.

**Conveyance, etc., of Restricted Lands Void.**

SEC. 5. That any attempted alienation or incumbrance by deed, mortgage, contract to sell, power of attorney, or other instrument or method of incumbering real estate, made before or after the approval of this Act, which affects the title of the land allotted to allottees of the Five Civilized Tribes prior to removal of restrictions therefrom, and also any lease of such

restricted land made in violation of law before or after the approval of this Act shall be absolutely null and void.

Groom v. Wright, 30 Okla. 652, 121 Pac. 215.

Bell v. Cook, 192 Fed. 597.

**Jurisdiction of Probate Courts Over Minors' Estates—Representatives of Secretary to Be Appointed—Suits.**

✓ SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives within the State of Oklahoma who shall be citizens of that State or now domiciled therein as he may deem necessary to inquire into and investigate the conduct of guardians or curators having in charge the estate of such minors, and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian or curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardian or curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors.

The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian or curator for such minors, without fee or charge.

And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other encumbrance of any kind or character, made or attempted to be made or executed in violation of this Act or any other Act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of ninety thousand dollars, to be available immediately, and until July first, nineteen hundred and nine, for expenditure under the direction of the Secretary of the Interior: Provided, That no restricted lands of living minors shall be sold or encumbered, except by leases authorized by law, by order of the court or otherwise.

And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of fifty thousand dollars, to be used in the payment of necessary expenses incident to any suits brought at the request of the Secretary of the Interior in the

eastern judicial district of Oklahoma: Provided, That the sum of ten thousand dollars of the above amount, or so much thereof as may be necessary, may be expended in the prosecution of cases in the western judicial district of Oklahoma.

Any suit brought by the authority of the Secretary of the Interior against the vendee or mortgagee of a town lot, against whom the Secretary of the Interior may find upon investigation no fraud has been established, may be dismissed and the title quieted upon payment of the full balance due on the original appraisement of such lot: Provided, That such investigation must be concluded within six months after the passage of this act.

Nothing in this act shall be construed as a denial of the right of the United States to take such steps as may be necessary, including the bringing of any suit and the prosecution and appeal thereof, to acquire or retain possession of restricted Indian lands, or to remove cloud therefrom, or clear title to the same, in cases where deeds, leases or contracts of any other kind or character whatsoever have been or shall be made contrary to law with respect to such lands prior to the removal therefrom of restrictions upon the alienation thereof; such suits to be brought on the recommendation of the Secretary of the Interior, without costs or charges to the allottees, the necessary expenses incurred in so doing to be defrayed from the money appropriated by this act.

Jefferson v. Winkler, 26 Okla. 653, 110 Pac. 755.

MaHarry v. Eatman, 29 Okla. 46, 116 Pac. 935.

Kirkpatrick v. Burgess, 29 Okla. 121, 116 Pac. 764.

Dewalt v. Cline, 128 Pac. 121.

United States v. Allen, 171 Pac. 907, 179 Pac. 13.

Henry Gas Co. v. United States, 191 Fed. 132.

Bell v. Cook, 192 Fed. 597.

Truskett v. Closser, 198 Fed. 835.

#### **Allotment Contests—Limitation on.**

SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made.

nor after ninety days from the approval of this Act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

**Wills of Full-Blood Indians.**

SEC. 8. That section twenty-three of an Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, is hereby amended by adding at the end of said section, the words "or a judge of a county court of the State of Oklahoma."

Proctor v. Harrison, 125 Pac. 479.

United States v. Shock, 187 Fed. 862, 870.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

**Sale of Inherited Lands—Approval of Deeds of Full-Blood Heirs—  
Wills—Homesteads Restricted.**

SEC. 9. That the death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: Provided, That no conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of said deceased allottee: Provided further, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March fourth, nineteen hundred and six, the homestead of such deceased allottee shall remain inalienable, unless restrictions against alienation are removed therefrom by the Secretary of the Interior in the manner provided in section one hereof, for the use and support of such issue, during their life or lives, until April twenty-sixth, nineteen hundred and thirty-one; but if no such issue survive, then such allottee, if an adult, may dispose of his homestead by will free from all restrictions; if this be not done, or in the event the issue hereinbefore provided for die before April twenty-

sixth, nineteen hundred and thirty-one, the land shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: Provided further, That the provisions of section twenty-three of the act of April twenty-sixth, nineteen hundred and six, as amended by this act, are hereby made applicable to all wills executed under this section.

Gardner, County Judge v. State, 27 Okla. —, 110 Pac. 749.

MaHarry v. Eatman, 29 Okla. 46, 116 Pac. 935.

Stout v. Simpson, 124 Pac. 754.

Harris v. Gale, 188 Fed. 712.

United States v. Shock, 187 Fed. 870.

Tiger v. Western Investment Co., 221 U. S. 286, 55 L. Ed. 738.

#### **Payment of Choctaw and Chickasaw Warrants.**

SEC. 10. That the Secretary of the Interior is hereby authorized and directed to pay out of any moneys in the Treasury of the United States, belonging to the Choctaw or Chickasaw nations respectively, any and all outstanding general and school warrants duly signed by the auditor of public accounts of the Choctaw and Chickasaw nations, and drawn on the national treasurers thereof prior to January first, nineteen hundred and seven, with six per cent interest per annum from the respective dates of said warrants: Provided, That said warrants be presented to the United States Indian agent at the Union Agency, Muskogee, Oklahoma, within sixty days from the passage of this act, together with the affidavits of the respective holders of said warrants that they purchased the same in good faith for a valuable consideration, and had no reason to suspect fraud in the issuance of said warrants: Provided further, That such warrants remaining in the hands of the original payee shall be paid by said Secretary when it is shown that the services for which said warrants were issued were actually performed by said payee.

#### **Seminole Mineral Leases—Payment of Royalties.**

SEC. 11. That all royalties arising on and after July first, nineteen hundred and eight, from mineral leases of allotted

Seminole lands heretofore or hereafter made, which are subject to the supervision of the Secretary of the Interior, shall be paid to the United States Indian agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: Provided, That the interest of the Seminole Nation in leases or royalties arising thereunder on all allotted lands shall cease on June thirtieth, nineteen hundred and eight.

**Tribal Records—Disposition of—Copies to Counties in Oklahoma.**

SEC. 12. That all records pertaining to the allotment of lands of the Five Civilized Tribes shall be finally deposited in the office of the United States Indian agent, Union Agency, when and as the Secretary of the Interior shall determine such action shall be taken, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available as the Secretary of the Interior may direct, the sum of fifteen thousand dollars, or so much thereof as may be necessary to enable the Secretary of the Interior to furnish the various counties of the State of Oklahoma certified copies of such portions of said records as affect title to lands in the respective counties.

**Tribal Property to Be Accounted for to Secretary.**

SEC. 13. That the second paragraph of section eleven of an act entitled "An act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, is hereby amended to read as follows:

That every officer, member or representative of the Five Civilized Tribes, respectively, or any other person, having in his possession, custody or control, any money or other property, including the books, documents, records or any other papers, of any of said tribes, shall make full and true account and report thereof to the Secretary of the Interior, and shall pay all money

of the tribe in his possession, custody or control, and shall deliver all other tribal properties so held by him to the Secretary of the Interior, and if any person shall wilfully and fraudulently fail to account for all such money and property so held by him, or to pay and deliver the same as herein provided, prior to July thirty-first, nineteen hundred and eight, he shall be deemed guilty of embezzlement and upon conviction thereof shall be punished by fine of not exceeding five thousand dollars, or by imprisonment not exceeding five years, or by both such fine and imprisonment, according to the laws of the United States relating to such offense, and shall be liable in civil proceedings to be prosecuted in behalf of and in the name of the tribe or tribes or in interest for the amount or value of the money or property so withheld.

**Town Lots—Sale of Lots.**

SEC. 14. That the provisions of section thirteen of the Act of Congress approved April twenty-sixth, nineteen hundred and six (Thirty-fourth Statutes at Large, page one hundred and thirty-seven), shall not apply to town lots in town sites heretofore established, surveyed, platted, and appraised under the direction of the Secretary of the Interior, but nothing herein contained shall be construed to authorize the conveyance of any interest in the coal or asphalt underlying said lots.

ACT OF MAY 27, 1908.

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FURTHER ANNOTATIONS.

ACT OF MAY 27, 1908.

FURTHER ANNOTATIONS.

EXTRACTS FROM AN ACT OF CONGRESS

Approved May 29, 1908.

(35 Stat. L. 444.)

AN ACT TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO ISSUE PATENTS IN FEE TO PURCHASERS OF INDIAN LANDS UNDER ANY LAW NOW EXISTING OR HEREAFTER ENACTED, AND FOR OTHER PURPOSES.

**Townsites—Additional Segregations—Sale of.**

SECTION 7. That in addition to the towns heretofore segregated, surveyed, and scheduled in accordance with law, the Secretary of the Interior be, and he is hereby, authorized to segregate and survey within that part of the territory of the Choctaw and Chickasaw nations, State of Oklahoma, heretofore segregated as coal and asphalt land, such other towns, parts of towns, or town lots, as are now in existence, or which he may deem it desirable to establish. He shall cause the surface of the lots in such towns or parts of towns to be appraised, scheduled, and sold at the rates, on the terms, and with the same character of estate as is provided in section twenty-nine of the Act of Congress approved June twenty-eight, eighteen hundred and ninety-eight (Thirtieth Statutes at Large, page four hundred and ninety-five), under regulations to be prescribed by him. That the provisions of section thirteen of the Act of Congress approved April twenty-sixth, nineteen hundred and six (Thirty-fourth Statutes at Large, page one hundred and thirty-seven), shall not apply to town lots appraised and sold as provided herein. That all expenses incurred in surveying, platting, and selling the lots in any town or parts of towns shall be paid from the proceeds of the sale of town lots of the nation in which such town is situate.

Superior Oil & Gas Co. v. Mehlin, 25 Okla. 809, 108 Pac. 545.

**Unallotted Lands May Be Sold for School Purposes.**

SEC. 10. That the Secretary of the Interior is hereby authorized to sell for use for school purposes to school districts

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of the State of Oklahoma, from the unallotted lands of the Five Civilized Tribes, tracts of land not to exceed two acres in any one district, at prices and under regulations to be prescribed by him, and proper conveyances of such lands shall be executed in accordance with existing laws regarding the conveyance of tribal property; and the Secretary of the Interior also shall have authority to remove the restrictions on the sale of such lands, not to exceed two acres in each case, as allottees of the Five Civilized Tribes, including full-bloods and minors, may desire to sell for school purposes.

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EXTRACT FROM AN ACT OF CONGRESS

Approved June 25, 1910.

ALLOWING APPEALS IN FEDERAL LAND SUITS.

(36 Stat. L. 836.)

AN ACT TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO  
ISSUE A PATENT TO THE CITY OF ANADARKO, STATE  
OF OKLAHOMA, FOR A TRACT OF LAND,  
AND FOR OTHER PURPOSES.

SECTION 3. That an appeal to the Supreme Court of the United States in all suits affecting the allotted lands within the eastern district of Oklahoma or on demurrers in such suits appealed to the United States circuit court of appeals, eighth circuit, is hereby authorized to be made by any of the parties thereto, including appeals from orders reversing judgments of the trial court.

Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.

Deming Investment Co. v. U. S. 224 U. S. 471, 56 L. Ed. 841.

EXTRACT FROM AN ACT OF CONGRESS

Approved June 25, 1910.

DEEDS TO TRIBAL LANDS ISSUED AFTER THE DEATH OF  
ALLOTTEE.

(36 Stat. L. 855.)

AN ACT TO PROVIDE FOR DETERMINING THE HEIRS OF  
DECEASED INDIANS, FOR THE DISPOSITION AND  
SALE OF ALLOTMENTS OF DECEASED INDIANS, FOR THE LEAS-  
ING OF ALLOTMENTS, AND FOR OTHER PURPOSES.

SECTION 32. Where deeds to tribal lands in the Five Civilized Tribes have been or may be issued, in pursuance of any tribal agreement or Act of Congress, to a person who had died or who hereafter dies before the approval of such deed, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assigns of such deceased grantee as if the deed had issued to the deceased grantee during life.

SEC. 33. That the provisions of this act shall not apply to the Osage Indians, nor to the Five Civilized Tribes, in Oklahoma, except as provided in section thirty-two.

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ACT OF CONGRESS

Approved February 19, 1912.

AN ACT TO PROVIDE FOR THE SALE OF THE SURFACE OF THE  
SEGREGATED COAL AND ASPHALT LANDS OF THE CHOC-  
TAW AND CHICKASAW NATIONS, AND FOR OTHER PURPOSES.

**Lands to Be Sold for not Less than Appraised Value—Appraise-  
ment—Procedure.**

BE IT ENACTED BY THE SENATE AND HOUSE OF  
REPRESENTATIVES OF THE UNITED STATES OF  
AMERICA IN CONGRESS ASSEMBLED, That the Secre-  
tary of the Interior is hereby authorized to sell at not less than

the appraised price, to be fixed as hereinafter provided, the surface, leased and unleased, of the lands of the Choctaw and Chickasaw Nations in Oklahoma segregated and reserved by order of the Secretary of the Interior dated March twenty-fourth, nineteen hundred and three, authorized by the Act approved July first, nineteen hundred and two. The surface herein referred to shall include the entire estate save the coal and asphalt reserved. Before offering such surface for sale the Secretary of the Interior, under such regulations as he may prescribe, shall cause the same to be classified and appraised by three appraisers, to be appointed by the President, at a compensation to be fixed by him, not to exceed for salary and expenses for each appraiser the sum of fifteen dollars per day for the time actually engaged in making such classification and appraisal. The classification and appraisal of the surface shall be by tracts, according to the Government survey of said lands, except that lands which are especially valuable by reason of proximity to towns or cities may, in the discretion of the Secretary of the Interior, be subdivided into lots or tracts containing not less than one acre. In appraising said surface the value of any improvements thereon belonging to the Choctaw and Chickasaw Nations, except such improvements as have been placed on coal or asphalt lands leased for mining purposes, shall be taken into consideration. The surface shall be classified as agricultural, grazing, or as suitable for town lots. The classification and appraisal provided for herein shall be completed within six months from the date of the passage of this Act, shall be sworn to by the appraisers, and shall become effective when approved by the Secretary of the Interior: Provided, That in the proceedings and deliberation of said appraisers in the process of said appraisal and in the approval thereof the Choctaw and Chickasaw Nations may present for consideration facts, figures, and arguments bearing upon the value of said property.


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**Holder's Preference Right to Purchase—Failure to Exercise Preference.**

SEC. 2. That after such classification and appraisalment has been made each holder of a coal or asphalt lease shall have a right for sixty days, after notice in writing, to purchase, at the appraised value and upon the terms and conditions hereinafter prescribed, a sufficient amount of the surface of the land covered by his lease to embrace improvements actually used in present mining operations or necessary for future operations up to five per centum of such surface, the number, location, and extent of the tracts to be thus purchased to be approved by the Secretary of the Interior: Provided, That the Secretary of the Interior may, in his discretion, enlarge the amount of land to be purchased by any such lessee to not more than ten per centum of such surface: Provided further, That such purchase shall be taken and held as a waiver by the purchaser of any and all rights to appropriate to his use any other part of the surface of such land, except for the purpose of future operations, prospecting, and for ingress and egress, as hereinafter reserved: Provided further, That if any lessee shall fail to apply to purchase under the provisions of this section within the time specified the Secretary of the Interior may, in his discretion, with the consent of the lessee, designate and reserve from sale such tract or tracts as he may deem proper and necessary to embrace improvements actually used in present mining operations, or necessary for future operations, under any existing lease, and dispose of the remaining portion of the surface within such lease free and clear of any claim by the lessee, except for the purposes of future operations, prospecting, and for ingress and egress, as hereinafter reserved.

**Condition of Sales—Procedure.**

SEC. 3. That sales of the surface under this Act shall be upon the conditions that the Choctaw and Chickasaw Nations, their grantees, lessees, assigns, or successors, shall have the right at all times to enter upon said lands for the purpose



of prospecting for coal or asphalt thereon, and also the right of underground ingress and egress, without compensation to the surface owner, and upon the further condition that said nations, their grantees, lessees, assigns, or successors, shall have the right to acquire such portions of the surface of any tract, tracts, or rights thereto as may be reasonably necessary for prospecting or for the conduct of mining operations or for the removal of deposits of coal and asphalt upon paying a fair valuation for the portion of the surface so acquired. If the owner of the surface and the then owner or lessee of such mineral deposits shall be unable to agree upon a fair valuation for the surface so acquired, such valuation shall be determined by three arbitrators, one to be appointed, in writing, a copy to be served on the other party by the owner of the surface, one in like manner by the owner or lessee of the mineral deposits, and the third to be chosen by the two so appointed; and in case the two arbitrators so appointed should be unable to agree upon a third arbitrator within thirty days, then and in that event, upon the application of either interested party, the United States district judge in the district within which said land is located shall appoint the third arbitrator: Provided, That the owner of such mineral deposits or lessee thereof, shall have the right of entry upon the surface so to be acquired for mining purposes immediately after the failure of the parties to agree upon a fair valuation and the appointment, as above provided, of an arbitrator by the said owner or lessee.

**Sales at Public Auction—When to Be Made.**

SEC. 4. That upon the expiration of two years after the lands have been first offered for sale the Secretary of the Interior, under rules and regulations to be prescribed by him, shall cause to be sold to the highest bidder for cash the surface of any lands remaining unsold and of any surface lands forfeited by reason of nonpayment of any part of the purchase price, without regard to the appraised value thereof: Provided, That the Secretary of the Interior is authorized to sell

at not less than the appraised value to the McAlester Country Club, of McAlester, Oklahoma, the surface of not to exceed one hundred and sixty acres in section seventeen, township five north, range fifteen east: Provided further, That the mineral underlying the surface of the lands condemned for the State penitentiary at McAlester, Oklahoma, under the Indian appropriation Act approved March third, nineteen hundred and nine, shall be subject to condemnation, under the laws of the State of Oklahoma, for State penitentiary purposes: And Provided further, That said mineral shall not be mined for other than State penitentiary purposes.

**Sales at Public Auction—Procedure—Terms of Payment.**

SEC. 5. That the sales herein provided for shall be at public auction under rules and regulations and upon terms to be prescribed by the Secretary of the Interior, except that no payment shall be deferred longer than two years after the sale is made. All agricultural lands shall be sold in tracts not to exceed one hundred and sixty acres, and deeds shall not be issued to any one person for more than one hundred and sixty acres of agricultural land, grazing lands in tracts not to exceed six hundred and forty acres, and lands especially valuable by reason of proximity to towns or cities may, in the discretion of the Secretary of the Interior, be sold in lots or tracts containing not less than one acre each. All deferred payments shall bear interest at five per centum per annum, and if default be made in any payment when due all rights of the purchaser thereunder shall, at the discretion of the Secretary of the Interior, cease and the lands shall be taken possession of by him for the benefit of the two nations, and the money paid as the purchase price of such lands shall be forfeited to the Choctaw and Chickasaw Tribes of Indians.

**Sales—Procedure—Issuance of Patents.**

SEC. 6. That if the mining trustees of the Choctaw and Chickasaw Nations and the three appraisers herein provided for, or a majority of the said trustees and appraisers, shall find

that such tract or tracts can not be profitably mined for coal or asphalt and can be more advantageously disposed of by selling the surface and the coal and asphalt together, such tract or tracts may be sold in that manner, in the discretion of the Secretary of the Interior, and patents issued for said lands as provided by existing laws: Provided, That this section shall not apply to land now leased for the purpose of mining coal or asphalt within the segregated and reserved area herein described.

#### **Issuance of Patents.**

SEC. 7. That when full purchase price for any property sold herein is paid, the chief executive of the two tribes shall execute and deliver, with the approval of the Secretary of the Interior, to each purchaser an appropriate patent or instrument of conveyance conveying to the purchaser the property so sold, and all conveyances made under this Act shall convey the fee in the land with reservation to the Choctaw and Chickasaw Tribes of Indians of the coal and asphalt in such land, and shall contain a clause or clauses reciting and containing the reservations, restrictions, covenants, and conditions under which the said property was sold, as herein provided, and said conveyance shall specifically provide that the reservations, restrictions, covenants, and conditions therein contained shall run with the land and bind the grantees, successors, representatives, and assigns of the purchaser of the surface: Provided, That the purchaser of the surface of any coal or asphalt land shall have the right at any time before final payment is due to pay the full purchase price on the surface of said coal or asphalt land, with accrued interest, and shall thereupon be entitled to patent therefor, as herein provided.

#### **Appropriations.**

SEC. 8. That there is hereby appropriated out of any moneys in the Treasury not otherwise appropriated belonging to the Choctaw and Chickasaw Tribes of Indians, the sum of fifty thousand dollars to pay expenses of the classification, appraise-

ment, and sales herein provided for, and the proceeds received from the sales of lands hereunder shall be paid into the Treasury of the United States to the credit of the Choctaws and Chickasaws and disposed of in accordance with section seventeen of an Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, and the Indian Appropriation Act approved March third, nineteen hundred and eleven.

**Secretary of Interior to Prescribe Rules and Regulations.**

SEC. 9. That the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules, regulations, terms, and conditions not inconsistent with this Act as he may deem necessary to carry out its provisions, including the establishment of an office during the sale of this land at McAlester, Pittsburg County, Oklahoma.

# INDIAN APPROPRIATION ACTS.

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## EXTRACTS FROM INDIAN APPROPRIATION ACT

Approved March 3, 1893.

### CREATING COMMISSION TO THE FIVE CIVILIZED TRIBES.

(27 Stat. L. 645.)

#### **Allotment of Lands—Citizenship for Indians.**

SECTION 15. The consent of the United States is hereby given to the allotment of lands in severalty not exceeding one hundred and sixty acres to any one individual within the limits of the country occupied by the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles; and upon such allotment the individuals to whom the same may be allotted shall be deemed to be in all respects citizens of the United States. And the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated to pay for the survey of any such lands as may be allotted by any of said tribes of Indians to individual members of said tribes; and upon the allotment of the lands held by said tribes respectively the rever- sionary interest of the United States therein shall be re- linquished and shall cease.

#### **Dawes Commission Created—Purpose and Authority of.**

SEC. 16. The President shall nominate and, by and with the advice and consent of the Senate, shall appoint three com- missioners to enter into negotiations with the Cherokee Nation, the Choctaw Nation, the Chickasaw Nation, the Muskogee (or Creek) Nation, the Seminole Nation, for the purpose of ex- tinguishment of the national or tribal title to any lands within that territory now held by any and all of such nations or tribes, either by cession of the same, or some part thereof to the

United States, or by the allotment and division of the same in severalty among the Indians of such nations or tribes, respectively, as may be entitled to the same, or by such other method as may be agreed upon between the several nations and tribes aforesaid, or each of them, with the United States, with a view to such an adjustment, upon the basis of justice and equity, as may, with the consent of such nations or tribes of Indians, so far as may be necessary, be requisite and suitable to enable the ultimate creation of a State or States of the Union which shall embrace the lands within the said Indian Territory.

Such commissioners shall, under such regulations and directions as shall be prescribed by the President, through the Secretary of the Interior, enter upon negotiation with the several nations of Indians as aforesaid in the Indian Territory, and shall endeavor to procure, first, such allotment of lands in severalty to the Indians belonging to each such nation, tribe or band, respectively, as may be agreed upon as just and proper to provide for each such Indian a sufficient quantity of land for his or her needs, in such equal distribution and apportionment as may be found just and suited to the circumstances; for which purpose, after the terms of such an agreement shall have been arrived at, the said commissioners shall cause the land of any such nation or tribe, or band to be surveyed and the proper allotment to be designated; and secondly, to procure the cession, for such price and upon such terms as shall be agreed upon, of any lands not found necessary to be so allotted or divided, to the United States; and to make proper agreements for the investment or holding by the United States of such moneys as may be paid or agreed to be paid to such nation, or tribes, or bands, or to any of the Indians thereof, for the extinguishment of their (interests) therein. But said commissioners shall, however, have power to negotiate any and all such agreements as, in view of all the circumstances affecting the subject, shall be found requisite and suitable to such an arrangement of the rights and interests and affairs of such nations, tribes, bands, or Indians or any of them, to enable the

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ultimate creation of a territory of the United States with a view to the admission of the same as a State in the Union.

Zevely v. Weimer, 5 I. T. 687, 82 S. W. 941.  
Dick v. Ross, 6 I. T. 85, 89 S. W. 664.  
Williams v. First Nat'l Bank, 20 Okla. 276, 95 Pac. 457.  
DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.  
Godfrey v. Iowa Land & Trust Co., 21 Okla. 293, 95 Pac. 792.  
Western Investment Co. v. Tiger, 21 Okla. 630, 96 Pac. 602, 221 U. S. 286, 55 L. Ed. 738.  
Kimberlin v. Commission to Five Civilized Tribes, 104 Fed. 653.  
Wallace v. Adams, 143 Fed. 716, 204 U. S. 420, 51 L. Ed. 547.  
Shulthis v. McDougal, 162 Fed. 331.  
Ligon v. Johnson, 164 Fed. 670.  
United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
United States v. Shock, 187 Fed. 862.  
The 30,000 Land Suits, 199 Fed. 811.  
Cherokee Nation v. Hitchcock, 187 U. S. 303, 47 L. Ed. 183.  
Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.  
Heckman v. United States, 224 U. S. 413, 56 L. Ed. 820.  
Mullen v. United States, 224 U. S. 448, 56 L. Ed. 834.  
Goat v. United States, 224 U. S. 458, 56 L. Ed. 841.

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#### INDIAN APPROPRIATION ACT

Approved August 15, 1894.

(28 Stat. I., 286.)

(This Act contains no legislation affecting the Five Civilized Tribes, or the Osage Nation.)

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#### INDIAN APPROPRIATION ACT

Approved March 2, 1895.

(28 Stat. I., 876.)

(This Act contains no legislation affecting the Five Civilized Tribes, or the Osage Nation.)

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## EXTRACTS FROM SUNDRY CIVIL APPROPRIATION BILL

Approved March 2, 1895.

(28 Stat. L. 939.)

**Dawes Commission—Two Additional Members.**

For continuing the work of the Commission appointed under section sixteen of the Act entitled "An Act making appropriations for current and contingent expenses, and fulfilling treaty stipulations with Indian tribes for fiscal year ending June thirtieth, eighteen hundred and ninety-four," approved March third, eighteen hundred and ninety-three, including the unexpended balance of the present appropriation, thirty thousand dollars, to be immediately available; and the President is hereby authorized to appoint two additional members of said Commission, who shall receive the compensation and expenses provided in said Act for members of said Commission: Provided, That so much of said Act as authorizes the employment of a stenographer and a surveyor, or other assistant or agent, is hereby repealed.

Williams v. First Nat'l Bank, 20 Okla. 277, 95 Pac. 457.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

Western Investment Co. v. Tigers, 21 Okla. 630, 96 Pac. 602.

Kimberlin v. Commission to Five Civilized Tribes, 104 Fed. 653.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

U. S. v. Choctaw Nation, 179 U. S. 496, 45 L. Ed. 291.

Cherokee Nation v. Hitchcock, 187 U. S. 303, 47 L. Ed. 183.

Dick v. Ross, 6 I. T. 85, 89 S. W. 664.

## EXTRACTS FROM INDIAN APPROPRIATION ACT,

Approved June 10, 1896.

(29 Stat. L. 339.)

**Dawes Commission Continued—Rolls of Citizenship—Appeals—  
Government of Indian Territory.**

For salaries and expenses of the Commissioners appointed under Acts of Congress approved March third, eighteen hundred and ninety-three, and March second, eighteen hundred and ninety-five, to negotiate with the Five Civilized Tribes in the Indian Territory, the sum of forty thousand dollars, to be immediate available; and said commission is directed to continue the exercise of the authority already conferred upon them by law and endeavor to accomplish the objects heretofore prescribed to them and report from time to time to Congress.

That said commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be so admitted and enrolled: Provided, however, That such application shall be made to such Commissioners within three months after the passage of this Act. The said commission shall decide all such applications within ninety days after the same shall be made. That in determining all such applications said commission shall respect all laws of the several nations or tribes, not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of each of said nations or tribes: And Provided, further, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this Act

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desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof.

In the performance of such duties said Commission shall have power and authority to administer oaths, to issue procees and compel the attendance of witnesses, and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now residing beyond the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes; Provided, That if the tribe, or any person, be aggrieved with the decision of the tribal authorities or the commission provided for in this Act, it or he may appeal from such decision to the United States district court: Provided, however, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

That the said commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this Act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States courts, as provided herein.

The commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs to remain there for use as the final judgment of the duly constituted authorities. And said commission shall also make a roll of freedmen entitled to citizenship in said tribes and shall include their names in the lists of members to

be filed with the Commissioner of Indian Affairs. And said commission is further authorized and directed to make a full report to Congress of leases, tribal and individual, with the area, amount and value of the property leased and the amount received therefor, and by whom and from whom said property is leased, and is further directed to make a full and detailed report as to the excessive holdings of members of said tribes and others.

It is hereby declared to be the duty of the United States to establish a government in the Indian Territory which will rectify the many inequalities and discriminations now existing in said Territory and afford needful protection to the lives and property of all citizens and residents thereof.

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Surveying lands in the Indian Territory: For the completion of the survey of the lands in the Indian Territory, two hundred thousand dollars, or so much thereof, as may be necessary, to be immediately available: Provided, That the surveys herein authorized, or any part of them, in the Indian Territory shall be made under the supervision of the Director of the Geological Survey by such persons as may be employed by or under him for that purpose. And such surveys shall be executed under instructions to be issued by the Secretary of the Interior, and subdivisional surveys shall be executed under the rectangular system, as now provided by law: Provided further, That when any surveys shall have been so made and plats and field notes thereof prepared, they shall be approved and certified to by the Director of the Geological Survey, and two copies thereof shall be returned, one for filing in the Indian Office and one in the General Land Office; and such surveys, field notes, and plats shall have the same legal force and effect as heretofore given to the acts of surveyors general: Provided further, That all laws inconsistent with the provisions hereof are hereby declared to be inoperative as respects such surveys: Provided further, That hereafter, in the public

land surveys of the Indian Territory, iron or stone posts shall be erected at each township corner, upon which shall be recorded the usual marks required to be placed on township corners by the laws and regulations governing public land surveys; also, that similar monuments shall be established at the corners of the townships that have been already surveyed by the Geological Survey: And Provided further, That the entire cost and transportation of such monuments to the Indian Territory shall not exceed five thousand dollars, and the cost of the setting of the monuments in the areas already surveyed shall not exceed two thousand five hundred dollars: Provided further, That hereafter it shall be unlawful for any person to destroy, deface, change, or remove to another place any section corner, quarter-section corner, or meander post, on any Government line or survey, or to cut down any witness tree or any tree blazed to mark the line of a Government survey, or to deface, change, or remove any monument or bench mark of any Government survey. That any person who shall offend against any of the provisions of this paragraph shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court shall be fined not exceeding two hundred and fifty dollars, or be imprisoned not more than one hundred days. All the fines accruing under this paragraph shall be paid into the Treasury, and the informer in each case of conviction shall be paid the sum of twenty-five dollars.

Kimberlin v. Commission, 3 I. T. 25, 53 S. W. 467, 104 Fed. 653.

Casteel v. McNeely, 4 I. T. 11, 64 S. W. 594.

Dukes v. Goodall, 5 I. T. 145, 82 S. W. 702.

Zevely v. Weimer, 5 I. T. 687, 82 S. W. 941.

Dick v. Ross, 6 I. T. 85, 89 S. W. 664.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

Robinson v. Owen, 30 Okla. 484, 119 Pac. 995.

Divine v. Harmon, 30 Okla. 820, 121 Pac. 219.

Wallace v. Adams, 143 Fed. 716, 204 U. S. 303.

Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.

Cherokee Nation v. Hitchcock, 187 U. S. 299, 47 L. Ed. 183.

Garfield v. Goldsby, 211 U. S. 249, 52 L. Ed. 168.

Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.

Heckman v. United States, 224 U. S. 413, 56 L. Ed. 820.

Mullen v. United States, 224 U. S. 448, 56 L. Ed. 834.

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EXTRACTS FROM INDIAN APPROPRIATION ACT

Approved June 7, 1897.

(30 Stats. L. 83.)


**Dawes Commission—Mississippi Choctaws—U. S. Court Jurisdiction—Tribal Rolls—Acts of Indian Councils—Appeals in Citizenship Cases.**

That the commission appointed to negotiate with the Five Civilized Tribes in the Indian Territory shall examine and report to Congress whether the Mississippi Choctaws under their treaties are not entitled to all the rights of Choctaw citizenship except an interest in the Choctaw annuities; Provided further, That on and after January first, eighteen hundred and ninety-eight, the United States courts in said Territory shall have original and exclusive jurisdiction and authority to try and determine all civil causes in law and equity thereafter instituted and all criminal causes for the punishment of any offense committed after January first, eighteen hundred and ninety-eight, by any person in said Territory, and the United States commissioners in said Territory shall have and exercise the powers and jurisdiction already conferred upon them by existing laws of the United States as respects all persons and property in said Territory; and the laws of the United States and the State of Arkansas in force in the Territory shall apply to all persons therein, irrespective of race, said courts exercising jurisdiction thereof as now conferred upon them in the trial of like causes: and any citizen of any one of said tribes otherwise qualified who can speak and understand the English language may serve as a juror in any of said courts.



That said commission shall continue to exercise all authority heretofore conferred on it by law to negotiate with the Five Civilized Tribes, and any agreement made by it with any one of said tribes, when ratified, shall operate to supend any provisions of this Act if in conflict therewith as to said nation: Provided, That the words "rolls of citizenship," as used in the Act of June tenth, eighteen hundred and ninety-six, making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian Tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, shall be construed to mean the last authenticated rolls of each tribe which have been approved by the council of the nation, and the descendants of those appearing on such rolls, and such additional names and their descendants as have been subsequently added, either by the council of such nation, the duly authorized courts thereof, or the commission under the Act of June tenth, eighteen hundred and ninety-six. And all other names appearing upon such rolls shall be open to investigation by such commission for a period of six months after the passage of this Act. And any name appearing on such rolls and not confirmed by the Act of June tenth, eighteen hundred and ninety-six, as herein construed, may be stricken therefrom by such commission where the party affected shall have ten days' previous notice that said commission will investigate and determine the right of such party to remain upon such roll as a citizen of such nation: Provided, also, That any one whose name shall be stricken from the roll by such commission shall have the right of appeal, as provided in the Act of June tenth, eighteen hundred and ninety-six.

That on and after January first, eighteen hundred and ninety-eight, all acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes passed shall be certified immediately upon their passage to the President of the United States and shall not take effect, if disapproved by him, or until thirty days after their passage: Provided, That this Act shall




not apply to resolutions for adjournment, or any acts, or resolutions, or ordinances in relation to negotiations with commissioners heretofore appointed to treat with said tribes.

That there shall be appointed by the President by and with the advice and consent of the Senate, one additional judge for said Territory; and the appellate court of said Territory shall designate the places in the several judicial districts therein at which and the times when such judge shall hold court, and courts shall be held at the places now provided by law and at the town of Wagoner and at such other places as shall be designated by said appellate court; and said judge shall be a member of the appellate court, and shall have all authority, exercise all powers, perform like duties, and receive the same salary as other judges of said courts, and shall serve for a term of four years from the date of appointment: Provided, That no one of said judges shall sit in the hearing of any case in said appellate court which was decided by him.

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That hereafter in the public land surveys of the Indian Territory iron or stone posts shall be erected at each township corner, upon which shall be recorded the usual marks required to be placed on township corners by the laws and regulations governing public land surveys.

- Myers v. Mathis, 2 I. T. 3, 46 S. W. 178.  
Maxey v. Wright, 3 I. T. 251, 54 S. W. 807.  
Hanks v. Hendricks, 3 I. T. 423, 58 S. W. 669.  
Crowell v. Young, 4 I. T. 148, 64 S. W. 607.  
Zevely v. Weimer, 5 I. T. 687, 82 S. W. 941.  
Dick v. Ross, 6 I. T. 85, 89 S. W. 664.  
In re Poff's Guardianship, 7 I. T. 59, 103 S. W. 765.  
Hayes v. Barringer, 7 I. T. 697, 104 S. W. 937, 168 Fed. 221.  
DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.  
In re Feland's Estate, 26 Okla. 448, 110 Pac. 736.  
Divine v. Harmon, 30 Okla. 820, 121 Pac. 219.  
Kimberlin v. Commission, 104 Fed. 653.  
Wallace v. Adams, 143 Fed. 716.  
Armstrong v. Wood, 195 Fed. 137.
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Redbird v. U. S., 203 U. S. 80, 51 L. Ed. 96.  
Heckman v. U. S., 224 U. S. 413, 56 L. Ed. 829.  
Stephens v. Cherokee Nation, 174 U. S. 444, 43 L. Ed. 1041.  
Mullen v. U. S., 224 U. S. 448, 56 L. Ed. 834.

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EXTRACTS FROM INDIAN APPROPRIATION ACT

Approved July 1, 1898.

(30 Stat. L. 591.)


MISCELLANEOUS.

**Dawes Commission—Appeals.**

For salaries of four Commissioners appointed under Acts of Congress approved March third, eighteen hundred and ninety-three, and March second, eighteen hundred and ninety-five, to negotiate with the Five Civilized Tribes in the Indian Territory, twenty thousand dollars: Provided, That the number of said Commissioners is hereby fixed at four.

That said Commission shall continue to exercise all authority heretofore conferred on it by law.

Appeals shall be allowed from the United States courts in the Indian Territory direct to the Supreme Court of the United States to either party, in all citizenship cases, and in all cases between either of the Five Civilized Tribes and the United States involving the constitutionality or validity of any legislation affecting citizenship, or the allotment of lands, in the Indian Territory, under the rules and regulations governing appeals to said court in other cases: Provided, That appeals in cases decided prior to this Act must be perfected in one hundred and twenty days from its passage; and in cases decided subsequent thereto, within sixty days from final judgment; but in no such case shall the work of the Commission to the Five Civilized Tribes be enjoined or suspended by any proceeding in, or order of, any court, or of any judge, until after final



judgment in the Supreme Court of the United States. In case of appeals, as aforesaid, it shall be the duty of the Supreme Court to advance such cases on the docket and dispose of the same as early as possible.

*Stephens v. Cherokee Nation*, 174 U. S. 444, 43 L. Ed. 1041.

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INDIAN APPROPRIATION ACT

Approved March 1, 1899.

(30 Stat. L. 939)

(This Act contains no legislation affecting the Five Civilized Tribes, or the Osage Tribe.)

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EXTRACTS FROM INDIAN APPROPRIATION ACT

Approved May 31, 1900.

(31 Stat. L. 221.)

**Dawes Commission—Mississippi Choctaws—Towns and Villages—  
Townsite Commissions.**

That said (Dawes) Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior: Provided, That any Mississippi Choctaw duly identified as such by the United States Commission to the Five Civilized Tribes shall have the right, at any time prior to the approval of the final rolls of the Choctaws and Chickasaws by the Secretary of the Interior, to make

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settlement within the Choctaw-Chickasaw country, and on proof of the fact of bona fide settlement may be enrolled by the said United States Commission and by the Secretary of the Interior as Choctaws entitled to allotment: Provided further, That all contracts or agreements looking to the sale or incumbrance in any way of the lands to be allotted to said Mississippi Choctaws, shall be null and void.

*Ikard v. Minter*, 4 I. T. 214, 69 S. W. 852.

*Redbird v. U. S.* 203, U. S. 80, 51 L. Ed. 96.

To pay all expenses incident to the survey, platting and appraisement of town sites in the Choctaw, Chickasaw, Creek, and Cherokee nations, Indian Territory, as required by sections fifteen and twenty-nine of an Act entitled "An Act for the protection of the people of the Indian Territory, and for other purposes," approved June twenty-eight, eighteen hundred and ninety-eight, for the balance of the current year and for the year ending June thirtieth, nineteen hundred and one, the same to be immediately available, sixty-seven thousand dollars, or so much as may be necessary: Provided, That the Secretary of the Interior is hereby authorized, under rules and regulations to be prescribed by him, to survey, lay out, and plat into town lots, streets, alleys, and parks, the sites of such towns and villages in the Choctaw, Chickasaw, Creek, and Cherokee nations, as may at that time have a population of two hundred or more, in such manner as will best subserve the then present needs and the reasonable prospective growth of such towns. The work of surveying, laying out, and platting such town sites shall be done by competent surveyors, who shall prepare five copies of the plat of each town site which when the survey is approved by the Secretary of the Interior, shall be filed as follows: One in the office of the Commissioner of Indian Affairs, one with the principal chief of the nation, one with the clerk of the court within the territorial jurisdiction of which the town is located, one with the Commission to the Five Civilized Tribes, and one with the town authorities. if

there be such. Where in his judgment the best interests of the public service require, the Secretary of the Interior may secure the surveying, laying out, and platting of town sites in any of said nation by contract.

Hereafter the work of the respective town-site commissions provided for in the agreement with the Choctaw and Chickasaw tribes ratified in section twenty-nine of the Act of June twenty-eight, eighteen hundred and ninety-eight, entitled "An Act for the protection of the people of the Indian Territory, and for the other purposes," shall begin as to any town site immediately upon the approval of the survey by the Secretary of the Interior and not before.

The Secretary of the Interior may in his discretion appoint a town-site commission consisting of three members for each of the Creek and Cherokee nations, at least one of whom shall be a citizen of the tribe and shall be appointed upon the nomination of the principal chief of the tribe. Each Commission, under the supervision of the Secretary of the Interior, shall appraise and sell for the benefit of the tribe the town lots in the nation for which it is appointed, acting in conformity with the provisions of any then existing Act of Congress or agreement with the tribe approved by Congress. The agreement of any two members of the commission as to the true value of any lot shall constitute a determination thereof, subject to the approval of the Secretary of the Interior, and if no two members are able to agree the matter shall be determined by such Secretary.

Where in his judgment the public interests will be thereby subserved, the Secretary of the Interior may appoint in the Choctaw, Chickasaw, Creek or Cherokee Nations a separate town-site commission for any town, in which event as to that town such local commission may exercise the same authority and perform the same duties which would otherwise devolve upon the commission for that Nation. Every such local commission shall be appointed in the manner provided in the Act approved June twenty-eight, eighteen hundred and ninety-

eight, entitled "An Act for the protection of the people of the Indian Territory."

The Secretary of the Interior, where in his judgment the public interests will be thereby subserved, may permit the authorities of any town in any of said nations, at the expense of the town, to survey, lay out, and plat the site thereof, subject to his supervision and approval, as in other instances.

As soon as the plat of any town site is approved, the proper commission shall, with all reasonable dispatch and within a limited time, to be prescribed by the Secretary of the Interior, proceed to make the appraisement of the lots and improvements, if any, thereon, and after the approval thereof by the Secretary of the Interior, shall, under the supervision of such Secretary, proceed to the disposition and sale of the lots in conformity with any then existing Act of Congress or agreement with the tribe approved by Congress, and if the proper commission shall not complete such appraisement and sale within the time limited by the Secretary of the Interior, they shall receive no pay for such additional time as may be taken by them, unless the Secretary of the Interior for good cause shown shall expressly direct otherwise.

The Secretary of the Interior may, for good cause, remove any member of any townsite commission, tribal or local, in any of said nations, and may fill the vacancy thereby made or any vacancy otherwise occurring in like manner as the place was originally filled.

It shall not be required that the townsite limits established in the course of the platting and disposing of town lots and the corporate limits of the town, if incorporated, shall be identical or coextensive, but such townsite limits and corporate limits shall be so established as to best subserve the then present needs and the reasonable prospective growth of the town, as the same shall appear at the times when such limits are respectively established: Provided further, That the exterior limits of all townsites shall be designated and fixed at the earliest practi-

able time under rules and regulations prescribed by the Secretary of the Interior.

Upon the recommendation of the Commission to the Five Civilized Tribes the Secretary of the Interior is hereby authorized at any time before allotment to set aside and reserve from allotment any lands in the Choctaw, Chickasaw, Creek, or Cherokee nations, not exceeding one hundred and sixty acres in any one tract, at such stations as are or shall be established in conformity with law on the line of any railroad which shall be constructed or be process of construction in or through either of said nations prior to the allotment of the lands therein, and this irrespective of the population of such townsite at the time. Such townsites shall be surveyed, laid out, and platted, and the lands therein disposed of for the benefit of the tribe in the manner herein prescribed for other townsites: Provided further, That whenever any tract of land shall be set aside as herein provided which is occupied by a member of the tribe, such occupant shall be fully compensated for his improvements thereon under such rules and regulations as may be prescribed by the Secretary of the Interior.

Nothing herein contained shall have the effect of avoiding any work heretofore done in pursuance of the said Act of June twenty-eighth, eighteen hundred and ninety-eight, in the way of surveying, laying out, or platting of townsites, appraising or disposing of town lots in any of said nations, but the same, if not heretofore carried to a state of completion, may be completed according to the provisions hereof.

U. S. v. Lewis, 5 I. T. 9, 76 S. W. 299.

Sorrells v. Jones, 26 Okla. 569, 110 Pac. 743.

Stancilift v. Fox, 90 S. W. 614, 152 Fed. 697.

U. S. v. Dowden, 194 Fed. 475.

Ballinger v. Frost, 216 U. S. 240, 54 L. Ed. 464.

Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.

Bledsoe v. Wortman, 129 Pac. 841.

## EXTRACTS FROM INDIAN APPROPRIATION ACT

Approved March 3, 1901.

(31 Stat. L. 1077.)

**Dawes Commission—Rolls of Citizens—Acts of Gherokee Council.**

The rolls made by the Commission to the Five Civilized Tribes, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon shall alone constitute the several tribes which they represent; and the Secretary of the Interior is authorized and directed to fix a time by agreement with said tribes or either of them for closing said rolls, but upon failure or refusal of said tribes or any of them to agree thereto, then the Secretary of the Interior shall fix a time for closing said rolls, after which no name shall be added thereto.

Garfield v. Goldsby, 211 U. S. 249, 52 L. Ed. 168.

Lone Wolf v. Hitchcock, 187 U. S. 561, 47 L. Ed. 299.

Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.

That no act, ordinance, or resolution of the Creek or Cherokee tribes, except resolutions for adjournment, shall be of any validity until approved by the President of the United States. When such acts, ordinances, or resolutions passed by the council of either of said tribes shall be approved by the principal chief thereof, then it shall be the duty of the national secretary of said tribe to forward them to the President of the United States, duly certified and sealed, who shall, within thirty days after their reception, approve or disapprove the same. Said acts, ordinances, or resolutions, when so approved, shall be published in at least two newspapers having a bona fide circulation in the tribe to be affected thereby, and when disapproved shall be returned to the tribe enacting the same.

Muskogee Nat'l Telephone Co. v. Hall, 4 I. T. 18, 64 S. W. 600, 118 Fed. 382.

South McAlester-Eufaula Telephone Co. v. State, 25 Okla. 524, 106 Pac. 962.

EXTRACTS FROM  
INDIAN APPROPRIATION ACT

Approved May 27, 1902.

(32 Stat. L. 245.)

**Dawes Commission—Enrollment of Creek Children—Arkansas  
Laws of Descent Applicable in Creek Nation—Removal of  
Intruders.**

For salaries of four commissioners appointed under Acts of Congress, approved March third, eighteen hundred and ninety-three, and March second, eighteen hundred and ninety-five, to negotiate with the Five Civilized Tribes in the Indian Territory, twenty thousand dollars: Provided, That said commission shall exercise all the powers heretofore conferred upon it by Congress: Provided further, That all children born to duly enrolled and recognized citizens of the Creek Nation up to and including the twenty-fifth day of May, nineteen hundred and one, and then living, shall be added to the rolls of citizenship of said nation made under the provisions of an Act entitled "An Act to ratify and confirm an agreement with the Muscogee or Creek tribe of Indians and for other purposes," approved March first, nineteen hundred and one, and if any such child has died since the twenty-fifth day of May, nineteen hundred and one, or may hereafter die, before receiving his allotment of land and distributive share of the funds of the tribe, the lands and moneys to which he would be entitled if living shall descend to his heirs and be allotted and distributed to them accordingly; And provided further, That the Act entitled "An Act to ratify and confirm an agreement with the Muscogee or Creek Tribe of Indians, and for other purposes," approved March first, nineteen hundred and one, in so far as it provides for descent and distribution according to the laws of the Creek Nation, is hereby repealed and the descent and distribution of lands and moneys provided for in said Act shall be in accordance with the provisions of chapter forty-nine of

Mansfield's Digest of the Statutes of Arkansas in force in Indian Territory. \* \* \* \* That hereafter the Secretary of the Interior may, whenever the chief executive of the Choctaw or Chickasaw nations fails or refuses to appoint a town-site commissioner for any town, or to fill any vacancy caused by the neglect or refusal of the town-site commissioner, appointed by the chief executive of the Choctaw or Chickasaw nations to qualify or act, in his discretion, appoint a commissioner to fill the vacancy thus created: Provided further, That the limits of such towns in the Cherokee, Choctaw, and Chickasaw nations having a population of less than two hundred people, as in the judgment of the Secretary of the Interior should be established, shall be defined as early as practicable by the Secretary of the Interior in the same manner as provided for towns having over two hundred people under existing law, and the same shall not be subject to allotment. That the land so segregated and reserved from allotment shall be disposed of, in such manner as the Secretary of the Interior may direct, by a town-site commission, one member to be appointed by the Secretary of the Interior and one by the executive of the nation in which such land is located; proceeds arising from the disposition of such lands to be applied in like manner as the proceeds of other lands in town sites.

For the purpose of removing intruders and placing allottees in unrestricted possession of their allotments, to be expended under the direction of the Secretary of the Interior and to be immediately available, fifteen thousand dollars; in all, one hundred and sixty thousand dollars: Provided, however, That it shall hereafter be unlawful to remove or deport any person from the Indian Territory who is in lawful possession of any lots or parcels of land in any town or city in the Indian Territory which has been designated as a town site under existing laws and treaties, and no part of this appropriation shall be used for the deportation or removal of any such person from Indian Territory: Provided, That the just and reasonable share of each member of the Chickasaw, Choctaw, Creek, and Cherokee

nations of Indians, in the lands belonging to the said tribes, which each member is entitled to hold in his possession until allotments are made, as provided in the Act entitled "An Act for the protection of the people of the Indian Territory, and for other purposes," approved June twenty-eight, eighteen hundred and ninety-eight, be, and the same is hereby, declared to be three hundred and twenty-acres for each member of the Chickasaw Nation, three hundred and twenty acres for each member of the Choctaw Nation, one hundred and sixty acres for each member of the Creek Nation, and one hundred acres for each member of the Cherokee Nation.

Buster v. Wright, 4 I. T. 300, 69 S. W. 882, 5 I. T. 404, 82 S. W. 855, 135 Fed. 947.

Ex parte Carter, 4 I. T. 539, 76 S. W. 102.

Zevely v. Weimer, 5 I. T. 696, 82 S. W. 941.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.

Keys v. First Nat'l Bank, 22 Okla. 174, 104 Pac. 346.

Brady v. Sizemore, 124 Pac. 615, 33 Okla. 169.

Shulthis v. McDougal, 162 Fed. 331, 170 Fed. 529, 225 U. S. 561, 56 L. Ed. 1205.

Morris v. Hitchcock, 194 U. S. 393, 48 L. Ed. 1030.

SEC. 8. That the part of the northern district of the Indian Territory consisting of the Creek country, the Seminole country, and all that portion of the Cherokee and Choctaw Nations included in the following-described boundaries, to wit: Commencing at the northeast corner of the Creek Nation and running east on the line between townships nineteen and twenty, to its intersection with the dividing line between ranges twenty and twenty-one, east, thence south on said line to its intersection with the Arkansas River, thence down the Arkansas River to its intersection with the Canadian River, thence up the Canadian River to its intersection with the dividing line between ranges twenty and twenty-one east, thence south to the intersecting line between townships seven and eight, thence west on the intersecting line between townships seven and eight to the Creek Nation, be, and the same is hereby, made

the western district in said Territory, and the places of holding courts in said western district shall be Muscogee, Wagoner, Sapulpa, Wewoka, Eufaula and Okmulgee. The judge appointed under the Act entitled "An Act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," approved June seventh, eighteen hundred and ninety-seven, shall be the judge of said western district, and he is hereby authorized to appoint a clerk who shall reside and keep his office at one of the places of holding court in said western district.

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JOINT RESOLUTION


Approved May 27, 1902.

(32 Stat. L. 742.)

JOINT RESOLUTION FIXING THE TIME WHEN CERTAIN PROVISIONS OF THE INDIAN APPROPRIATION ACT FOR THE YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND THREE, SHALL TAKE EFFECT.

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Act entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and fulfilling treaty stipulations with the various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes," shall take effect from and after July first, nineteen hundred and two, except as otherwise specifically provided therein.

DeGraffenreid v. Iowa Land & Trust Co., 20 Okla. 687, 95 Pac. 624.  
Brady v. Sizemore, 124 Pac. 615, 33 Okla. 169.



EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved March 3, 1903.

(32 Stat. L. 982.)

**Citizenship Court — Restrictions Removed for Townsites —  
Seminole Tribal Government.**

The Supreme Court of the United States may transfer to the Choctaw and Chickasaw citizenship court the papers in the cases of Choctaw and Chickasaw citizenship appealed from the United States courts in the Indian Territory to the Supreme Court during the year eighteen hundred and ninety-eight.

That all causes transferred under section thirty-one of the Act of Congress of July first, nineteen hundred and two, entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," to the citizenship court for the Choctaw and Chickasaw nations provided in said Act shall be tried and determined under the provisions of section thirty-two of said Act and disposed of the same as if appealed to such court under the provisions of section thirty-two of the said Act:

And Provided further, That nothing herein contained shall prevent the survey and platting, at their own expense, of town sites by private parties where stations are located along the lines of railroads, nor the unrestricted alienation of lands for such purposes, when recommended by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior. That hereafter the Secretary of the Interior may, whenever the chief executive of the Choctaw or Chickasaw nations fails or refuses to appoint a town-site commissioner for any town, or to fill any vacancy caused by the neglect or refusal of the town-site commissioner appointed by the chief executive of the Choctaw or Chickasaw nations to qualify or act, in his discretion, appoint a commissioner to fill the vacancy thus created. ....

SECTION 8. That the tribal government of the Seminole Nation shall not continue longer than March fourth, nineteen hundred and six: Provided, That the Secretary of the Interior shall at the proper time furnish the principal chief with blank deeds necessary for all conveyances mentioned in the agreement with the Seminole Nation contained in the Act of July first, eighteen hundred and ninety-eight (Thirtieth Statutes, page five hundred and sixty-seven), and said principal chief shall execute and deliver said deeds to the Indian allottees as required by said Act, and the deeds for allotment, when duly executed and approved, shall be recorded in the office of the Dawes Commission prior to delivery and without expense to the allottee until further legislation by Congress, and such records shall have like effect as other public records: Provided further, That the homestead referred to in said Act shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the deed for the allotment. A separate deed shall be issued for said homestead, and during the time the same is held by the allottee it shall not be liable for any debt contracted by the owner thereof. ....

Moore v. O'Dell, 27 Okla. 194, 111 Pac. 308.

Stout v. Simpson, 124 Pac. 754.

Rentie v. McCoy, 128 Pac. 244.

The 30,000 Land Suits, 199 Fed. 811.

Pallinger v. Frost, 216 U. S. 240, 54 L. Ed. 464.

Goat v. U. S., 224 U. S. 458, 56 L. Ed. 841.

Eastern Cherokees v. U. S., 225 U. S. 571, 56 L. Ed. 1212.

EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved April 21, 1904.

(33 Stat. L. 189.)

**Dawes Commission—Removal of Restrictions—Cherokee Allotments — Delaware-Cherokee Indians — Coal and Asphalt-Lands.**

For salaries of four commissioners appointed under Acts of Congress approved March third, eighteen hundred and ninety-three, and March second, eighteen hundred and ninety-five, to negotiate with the Five Civilized Tribes in the Indian Territory, twenty thousand dollars, and said Commission shall conclude its work and terminate on or before the first day of July, nineteen hundred and five, and said Commission shall cease exist on July first, nineteen hundred and five: Provided, That said Commission shall exercise all the powers heretofore conferred upon it by Congress: And Provided further, That the Secretary of the Interior is hereby granted authority to sell at public sale in tracts not exceeding one hundred and sixty acres to any one purchaser, under rules and regulations to be made by the Secretary of the Interior, the residue of land in the Creek Nation belonging to the Creek Tribe of Indians, consisting of about five hundred thousand acres, and being the residue of lands left over after allotments of one hundred and sixty acres to each of said tribe.

And all the restrictions upon the alienation of lands of all allottees of either of the Five Civilized Tribes of Indians who are not of Indian blood, except minors, are, except as to homesteads, hereby removed, and all restrictions upon the alienation of all other allottees of said tribes, except minors, and except as to homesteads, may, with the approval of the Secretary of the Interior, be removed under such rules and regulations as the Secretary of the Interior may prescribe, upon application to the United States Indian agent at the Union Agency in

charge of the Five Civilized Tribes, if said agent is satisfied upon a full investigation of each individual case that such removal of restrictions is for the best interest of said allottee. The finding of the United States Indian agent and the approval of the Secretary of the Interior shall be in writing and shall be recorded in the same manner as patents for lands are recorded.

Alfrey v. Colbert, 7 I. T. 338, 104 S. W. 638, 168 Fed. 231.

Harris v. Hardridge, 7 I. T. 532, 104 S. W. 826, 166 Fed. 109.

Sayer v. Brown, 7 I. T. 675, 104 S. W. 877.

Lewis v. Clements, 21 Okla. 167, 95 Pac. 769.

Godfrey v. Iowa Land & Trust Co., 21 Okla. 293, 95 Pac. 792.

Landrum v. Graham, 22 Okla. 458, 98 Pac. 432.

International Land Co. v. Marshall, 22 Okla. 693, 98 Pac. 951.

Eldred v. Okmulgee Loan & Trust Co., 22 Okla. 742, 98 Pac. 929.

McWilliams Investment Co. v. Livingston, 22 Okla. 884, 98 Pac. 914.

Sharp v. Lancaster, 23 Okla. 349, 100 Pac. 578.

Blakemore v. Johnson, 24 Okla. 544, 103 Pac. 554.

Superior Oil & Gas Co. v. Mehlin, 25 Okla. 809, 108 Pac. 545.

Jefferson v. Winkler, 26 Okla. 653, 110 Pac. 755.

Simmons v. Whittington, 27 Okla. 356, 112 Pac. 1018.

Harris v. Lynde-Bowman-Darby Co., 29 Okla. 362, 116 Pac. 808.

Skelton v. Dill, 30 Okla. 278, 119 Pac. 267.

Groom v. Wright, 30 Okla. 652, 12 Pac. 215.

In re Davis' Estate, 32 Okla. 209, 122 Pac. 547.

Williams v. Johnson, 32 Okla. 247, 122 Pac. 485.

Rogers v. Noel, 124 Pac. 976.

Campbell v. McSpadden, 127 Pac. 854.

Parkinson v. Skelton, 128 Pac. 131, 33 Okla. 813.

Rentie v. McCoy, 128 Pac. 244.

Moore v. Sawyer, 167 Fed. 826.

United States v. Shock, 187 Fed. 862.

Frame v. Bivens, 189 Fed. 785.

United States v. Dowden, 194 Fed. 475.

Hawkins v. Okla. Oil Co., 195 Fed. 345.

The 30,000 Land Suits, 199 Fed. 811.

Goat v. United States, 224 U. S. 458, 56 L. Ed. 841.

Deming Investment Co. v. United States, 224 U. S. 471, 56 L. Ed. 847.


Biedsoe v. Wortman, 129 Pac. 841.

That the Delaware-Cherokee citizens who have made improvements, or are in rightful possession of such improvements, in the Cherokee Nation at the time of the passage of this Act shall have the right to first select from said improved lands their allotments, and thereafter, for a period of six months, shall have the right to sell the improvements upon their surplus holdings of lands to other citizens of the Cherokee Nation entitled to select allotments at a valuation to be approved by an official to be designated by the President for that purpose; and the vendor shall have a lien upon the rents and profits of the land on which the improvements are located for the purchase money remaining unpaid; and the vendor shall have the right to enforce such lien in any court of competent jurisdiction. The vendor may, however, elect to take and retain the possession of the land at a fair cash rental, to be approved by the official so as aforesaid designated, until such rental shall be sufficient to satisfy the unpaid purchase price, and when the purchase price is fully paid he shall forthwith deliver possession of the land to the purchaser: Provided, however, That any crops then growing on the land shall be and remain the property of the vendor, and he may have access to the land so long as may be necessary to cultivate and gather such growing crops. Any such purchaser shall, without unreasonable delay, apply to select as an allotment the land upon which the improvements purchased by him are located, and shall submit with his application satisfactory proof that he has in good faith purchased such improvements.

That the Secretary of the Interior be, and he is hereby, authorized and directed, upon the sale of lands in Indian Territory covered by coal and asphalt leases, to sell such lands subject to the right of the lessee to use so much of the surface as may be needed for coke ovens, miners' houses, store and supply buildings, and such other structures as are generally used in the production and shipment of coal and coke. Lessees may use the tipples and underground workings located on any lease in the production of coal and coke from adjoining leases, and

are hereby authorized to surrender leased premises to the owner thereof on giving sixty days' notice in writing to such owner and paying all charges and royalties due to the date of surrender: Provided, however, That nothing herein contained shall release the lessee from the payment of the stipulated royalty so long as such lessee remains in possession of any of the surface of the lands included in his lease for any purposes whatever: And provided, That any lessee may remove or dispose of any machinery, tools or equipment the lessee may have upon the leased lands. . . .

All unleased lands which are by section fifty-nine of an Act entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," approved July first, nineteen hundred and two, directed to "be sold at public auction for cash," and all other unleased lands and deposits of like character in said nations segregated under any Act of Congress, shall, instead, be sold under direction of the Secretary of the Interior in tracts not exceeding nine hundred and sixty acres to each person, after due advertisement, upon sealed proposals, under regulations to be prescribed by the Secretary of the Interior and approved by the President, with authority to reject any or all proposals: Provided, That the President shall appoint a commission of three persons, one on the recommendation of the principal chief of the Choctaw Nation who shall be a Choctaw by blood, and one upon the recommendation of the governor of the Chickasaw Nation, who shall be a Chickasaw by blood, which commission shall have a right to be present at the time of the opening of bids and be heard in relation to the acceptance or rejection thereof.



EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved March 3, 1905.

(33 Stat. L. 1048.)

**Townsites—Intruders—Secretary to Supersede Commission—  
Leases by Guardians, etc.—Delaware-Cherokee Indians—Ad-  
ditional Enrollment of Citizens—Appeals.**

To pay all expenses incident to completion of the survey, platting, and appraisement of town sites in the Choctaw, Chickasaw, Creek, and Cherokee Nations, Indian Territory, under the provisions of an Act of June twenty-eighth, eighteen hundred and ninety-eight, and all Acts amendatory thereof or supplemental thereto, ten thousand dollars, the same to be immediately available: Provided, That the several town site commissions in the Choctaw, Chickasaw, Creek and Cherokee Nations shall, upon the completion of the appraisement of the town lots in their respective nations, be abolished by the Secretary of the Interior at such time as in his judgment it is considered proper; and all unfinished work of such commissions, the sale of town lots at public auctions, disposition of contests, the determination of the rights of claimants, and the closing up of all other minor matters appertaining thereto shall be performed by the Secretary of the Interior under such rules and regulations as he may prescribe: Provided further, That all unsold lots, the disposition of which is required by public auction, shall be offered for sale and disposed of from time to time by the Secretary of the Interior for the best obtainable price as will in his judgment best subserve the interests of the several tribes; and the various provisions of law in conflict herewith are modified accordingly. . . .


That the work of completing the unfinished business, if any, of the Commission to the Five Civilized Tribes shall devolve upon the Secretary of the Interior, and that all the powers heretofore granted to the said Commission to the Five Civilized

Tribes are hereby conferred upon the said Secretary on and after the first of July, nineteen hundred and five.

It shall be the duty of the Secretary of the Interior to investigate, or cause to be investigated, any lease of allotted land in the Indian Territory which he has reason to believe has been obtained by fraud, or in violation of the terms of existing agreements with any of the Five Civilized Tribes, and he shall in any such case where in his opinion the evidence warrants it refer the matter to the Attorney-General for suit in the proper United States court to cancel the same, and in all cases where it may appear to the court that any lease was obtained by fraud, or in violation of such agreements, judgment shall be rendered canceling the same upon such terms and conditions as equity may prescribe, and it shall be allowable in cases where all parties in interest consent thereto to modify any lease and to continue the same as modified: Provided, No lease made by any administrator, executor, guardian or curator which has been investigated by and has received the approval of the United States court having jurisdiction of the proceeding shall be subject to suit or proceeding by the Secretary of the Interior or Attorney-General: Provided further, No lease made by any administrator, executor, guardian, or curator shall be valid or enforceable without the approval of the court having jurisdiction of the proceeding. . . .

That in the case entitled "In the matter of enrollment of persons claiming rights in the Cherokee Nation by intermarriage against The United States, Departmental, Numbered Seventy-six," now pending in the Court of Claims, the said Court is hereby authorized and empowered to render final judgment in said case, and either party feeling itself aggrieved by said judgment shall have the right of appeal to the Supreme Court of the United States within thirty days from the filing of said judgment in the Court of Claims. And the said Supreme Court of the United States shall advance said case on its calendar for early hearing.

That Delaware-Cherokee citizens who have made improvements, or were in rightful possession of such improvements



upon lands in the Cherokee Nation on April twenty-first, nineteen hundred and four to which there is no valid adverse claim, shall have the right within six months from the date of the approval of this Act to dispose of such improvements to other citizens of the Cherokee Nation entitled to select allotments at a valuation to be approved by an official to be designated by the President for that purpose and the amount for which said improvements are disposed of, if sold according to the provisions of this Act, shall be a lien upon the rents and profits of the land until paid, and such lien may be enforced by the vendor in any court of competent jurisdiction: Provided, That the right of any Delaware-Cherokee citizen to dispose of such improvements shall, before the valuation at which the improvements may be sold, be determined under such regulations as the Secretary of the Interior may prescribe.

That the commission to the Five Civilized Tribes is hereby authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of infant children born prior to September twenty-fifth, nineteen hundred and two, and who were living on said date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act; and to enroll and make allotments to such children.

That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of children born subsequent to September twenty-fifth, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act; and to enroll and make allotments to such children.

That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this


Act to receive and consider applications for enrollments of children born subsequent to May twenty-five, nineteen hundred and one, and prior to March fourth, nineteen hundred and five, and living on said latter date, to citizens of the Creek Tribe of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act; and to enroll and make allotments to such children.

That the Commission to the Five Civilized Tribes is authorized for ninety days after the date of the approval of this Act to receive and consider applications for enrollment of infant children born prior to March fourth, nineteen hundred and five, and living on said latter date, to citizens of the Seminole tribe whose enrollment has been approved by the Secretary of the Interior; and to enroll and make allotments to such children giving to each an equal number of acres of land, and such children shall also share equally with other citizens of the Seminole tribe in the distribution of all other tribal property and funds. . . .

That the provision in the Indian appropriation bill for the fiscal year ending June thirtieth, nineteen hundred and four, authorizing the Secretary of the Interior to sell the residue of the lands of the Creek Nation not taken as allotments is hereby repealed and the provision of the Creek Agreement, Article III, approved March one, nineteen hundred and one, is hereby restored and re-enacted.

That the Secretary of the Interior shall make an investigation and definitely ascertain what amount of land, if any, belonging to the Creek Nation, has been taken and allotted to the members of the Seminole tribe and arrange payment to the Creek Nation for such land if there be anything due by the Seminole Nation.

That the improvements of Seminole citizens upon Creek lands and the improvements of Creek citizens upon Seminole lands that are unpaid for by said allottees shall be investigated by the Secretary of the Interior and paid for by said nations, respectively. . . .



SEC. 12. That hereafter all appeals and writs of error shall be taken from the United States Courts in the Indian Territory to the United States court of appeals in the Indian Territory, and from the United States court of appeals in the Indian Territory to the United States circuit court of appeals for the eighth circuit in the same manner as is now provided for in cases taken by appeal or writ of error from the circuit courts of the United States to the circuit court of appeals of the United States for the eighth circuit.

Martin v. United States, 7 I. T. 451, 104 S. W. 678, 168 Fed. 198.  
In re Terrell's Estate, 6 I. T. 412, 98 S. W. 143.  
U. S. Fidelity & Guaranty Co. v. Shirk, 7 I. T. 83, 103 S. W. 773.  
In re Perryhill's Estate, 7 I. T. 593, 104 S. W. 847.  
Lewis v. Sittle, 7 I. T. 602, 104 S. W. 850, 165 Fed. 157.  
Muskogee Land Co. v. Blackburn, 20 Okla. 803, 95 Pac. 252.  
Porter v. Brook, 21 Okla. 885, 97 Pac. 645.  
Bickford v. Bruce, 21 Okla. 892, 97 Pac. 648.  
Utterback v. Rock Island Plow Co., 22 Okla. 263, 97 Pac. 649.  
Parks v. City of Ada, 24 Okla. 168, 103 Pac. 607.  
Kelly v. McCombs, 23 Okla. 567, 102 Pac. 186.  
Riverside Oil & Gas Co. v. Tulsa Water, Light, Heat & Power Co.,  
24 Okla. 323, 103 Pac. 608.  
Paulter v. Manuel, 25 Okla. 59, 104 Pac. 749.  
Chouteau v. Chouteau, 25 Okla. 426, 106 Pac. 854.  
First Nat'l Bank v. Jacobs, 26 Okla. 840, 111 Pac. 303.  
Lewis v. Sittle, 30 Okla. 530, 121 Pac. 1078.  
Morrison v. Burnette, 154 Fed. 617.  
United States v. Allen, 171 Fed. 907, 179 Fed. 13.  
Laurel Oil Co. v. Morrison, 212 U. S. 291, 52 L. Ed. 517.  
Lowe v. Fisher, 223 U. S. 95, 56 L. Ed. 364.  
Goat v. United States, 224 U. S. 458, 56 L. Ed. 841.

EXTRACTS FROM  
INDIAN APPROPRIATION ACT.


Approved June 21, 1906.

(34 Stat. L. 325.)

**Reservations—Completion of Rolls—Mississippi Choctaws—Restrictions Removed for Townsites.**

That there shall be reserved from allotment one acre of the unallotted lands of the Choctaw and Chickasaw tribes for each church under the control of or used exclusively by the Choctaw or Chickasaw freedmen; and there shall be reserved from allotment one acre of said lands for each school conducted by Choctaw or Chickasaw freedmen, under the supervision of the authorities of said tribes and officials of the United States, and patents shall issue, as provided by law, to the person or organization entitled to receive the same. There are also reserved such tracts from said lands as the Secretary of the Interior may approve for cemeteries; and such cemeteries may be reserved, respectively, for Indians, freedmen, and whites, as the Secretary may designate.

That the Commissioner to the Five Civilized Tribes is hereby authorized to add the names of the following persons to the final roll of the citizens by blood of the Choctaw tribe: Malinda Pickens, Morris Battiest, and Samuel Sydney Burris; and the names of the following persons to the final roll of the citizens by blood of the Chickasaw tribe: Rebecca Pitts, Maggie Wade; and the names of Nancy Bigknife, Alice Owen and her children, to the final roll of the citizens by blood of the Cherokee tribe, the said persons being either Choctaw, Chickasaw, or Cherokee Indians by blood, whose names through neglect on their part or on the part of their parents, have been omitted from the tribal rolls: Provided, That the enrollment of said persons by the Commissioner to the Five Civilized Tribes shall not be objected to by the said tribes, and shall be approved by the Secretary of the Interior.



That the Secretary of the Interior shall upon completion of the approved rolls, have prepared and printed in a permanent record book such rolls of the Five Civilized Tribes and that one copy of such record book shall be deposited in the office of the recorder in each of the recording districts for public inspection. That any person who shall copy any roll of citizenship of the Creek, Cherokee, Choctaw, Chickasaw, or Seminole tribes of Indians, prepared by or under the direction of the Secretary of the Interior, the Commission to the Five Civilized Tribes or the Commissioner to the Five Civilized Tribes, whether completed or not, or any person who shall, directly or indirectly, exhibit, sell, offer to sell, give away, offer to give away, or in any manner or by any means offer to dispose of, or who shall have in his possession, any such roll or rolls, any copy of the same, or a copy of any portion thereof, shall be deemed guilty of a misdemeanor, and punished by imprisonment for not exceeding two years: Provided, That this act shall not apply to any persons authorized by the Secretary of the Interior, the Commissioner of Indian Affairs, or the Commissioner to the Five Civilized Tribes to copy, exhibit, or use such rolls, or a copy thereof, for any purpose necessary or required by law.

No distinction shall be made in the enrollment of full-blood Mississippi Choctaws who have been identified by the United States Commission to the Five Civilized Tribes, and who had removed to the Indian Territory prior to March fourth, nineteen hundred and six, and who shall furnish proof thereof.

That section two of the Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, be, and the same is hereby, amended by striking out thereof the words "Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application

has been fixed by agreement between said tribe and the United States: Provided further, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States." And insert in said Act in lieu of the matter repealed, the following: Provided further, That nothing herein shall be construed so as hereafter to permit any person to file an application for enrollment or to be entitled to enrollment in any of said tribes, except for minors the children of Indians by blood, or of freedmen members of said tribes, or of Mississippi Choctaws identified under the fourteenth article of the treaty of eighteen hundred and thirty, as herein otherwise provided, and the fact that the name of a person appears on the tribal roll of any of said tribes shall not be construed to be an application for enrollment.

That section fifteen of the Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, be, and the same is hereby, amended by inserting after the word "conveyances," at the end of said section, the following: "Provided, That this section shall not take effect until the date of the dissolution of the tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes."

That the boundary line between the Creek Nation, Indian Territory, and the Territory of Oklahoma, as surveyed by Frederick W. Bardwell in eighteen hundred and seventy-one, and re-established by the Geological Survey in eighteen hundred and ninety-five and eighteen hundred and ninety-six is hereby declared to be the west boundary line of the Creek Nation.

Spade v. Morton, 28 Okla. 384, 114 Pac. 724.

Henry Gas Co. v. U. S., 191 Fed. 132.

Gritts v. Fisher, 224 U. S. 640, 56 L. Ed. 928.

Lawless v. Raddis, 129 Pac. 711.

EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved March 1, 1907.

(34 Stat. L. 1015.)

**Indian Agency Notice—Choctaw-Chickasaw Courts. Abolished—  
Extension of Restrictions—Newborn Cherokees.**

The filing heretofore or hereafter of any lease in the office of the United States Indian agent, Union Agency, Muskogee, Indian Territory, shall be deemed constructive notice. . . .

That upon the passage of this Act tribal courts of the Choctaw and Chickasaw nations shall be abolished, and no officer of said courts shall thereafter have any authority whatever to do or perform any act theretofore authorized by any law in connection with said courts or to receive any pay for the same; and all civil and criminal causes then pending in any such court in said nations shall be transferred to the proper United States court in said Territory by filing with the clerk of the court the original papers. . . .

That William Brown and Levi B. Gritts, on their own behalf and on behalf of all other Cherokee citizens, having like interests in the property allotted under the Act of July first, nineteen hundred and two, entitled "An Act to provide for the allotment of lands of the Cherokee Nation, for the disposition of town sites therein, and for other purposes," and David Muskrat and J. Henry Dick, on their own behalf, and on behalf of all Cherokee citizens enrolled as such for allotment as of September first, nineteen hundred and two, be, and they are hereby, authorized and empowered to institute their suits in the Court of Claims to determine the validity of any Acts of Congress passed since the said Act of July first, nineteen hundred and two, in so far as said Acts, or any of them, attempt to increase or extend the restrictions upon alienation, encumbrance, or the right to lease the allotments of lands of Cherokee citizens, or to in-

crease the number of persons entitled to share in the final distribution of lands and funds of the Cherokees beyond those enrolled for allotment as of September first, nineteen hundred and two, and provided for in the said Act of July first, nineteen hundred and two.

And jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal, by either party, to the Supreme Court of the United States, to hear, determine and adjudicate each of said suits.

The suits brought hereunder shall be brought on or before September first, nineteen hundred and seven, against the United States as a party defendant, and for the speedy disposition of the questions involved, preference shall be given to the same by said courts, and by the Attorney-General, who is hereby charged with the defense of said suits.

*Eberle v. King*, 20 Okla. 49, 93 Pac. 748.

*United States v. Allen*, 171 Fed. 907.

*Muskrat v. U. S.*, 219 U. S. 346, 55 L. Ed. 246.

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EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved April 30, 1908.

(35 Stat. L. 70.)

**Secretary to Dispose of Tribal Property—Contracts with Citizens.**

The Secretary of the Interior shall take possession of all buildings on lands belonging to the Five Civilized Tribes, now or heretofore used for governmental, school, or other tribal purposes, together with the furniture therein and the land appertaining thereto, and appraise and sell the same at such time and under such rules and regulations as he may prescribe and deposit the proceeds, less expenses incident to the appraisal and sale, in the Treasury of the United States, to the



credit of the tribes respectively owning the said land and improvements, and immediately after any such sale patents for the realty thus sold shall be made and delivered in the same manner as now provided by law for other tribal property: Provided, That when practicable preference right shall be given to the State, counties and municipalities of Oklahoma to purchase said lands and improvements at the appraised value: And provided, That pending such appraisal and sale the Secretary of the Interior may temporarily lease said buildings and lands for the benefit of the tribes respectively to which they belong. . . .

That contracts heretofore or hereafter made by and between persons stricken by the Secretary of the Interior from the final rolls of the Five Civilized Tribes, and attorneys employed by them to secure their restoration to said rolls, shall be valid and enforceable when approved by the Secretary of the Interior in their original or in such modified form as he may deem equitable and not otherwise; and such contracts as are approved as herein provided, when recorded in the county where such land is located shall be a lien, in the event of the restoration of such persons to the rolls against allotted lands or tribal funds of the persons so restored to or given rights upon said rolls. . . .

United States v. Allen, 171 Fed. 907.

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EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved March 3, 1909.

(35 Stat. L. 781.)

**Commutation of Remnant Allotments—Town Lot Payments.**

That allottees of the Cherokee, Choctaw and Chickasaw nations, having remnant allotments due them of not exceeding fifty dollars in value, shall be paid twice the value thereof in lieu

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of such allotment, by check from the tribal funds of their respective tribes. The Secretary of the Interior is directed immediately after July first, nineteen hundred and nine and prior to December first, nineteen hundred and nine, to pay allottees out of the funds of the Creek Nation, the amounts severally due for the equalization of their allotments. In making such payment for the equalization of the Creek allotments, eight hundred dollars shall be taken as the standard value of an allotment: Provided, That the payment of such funds for the equalization of allotments shall be a final and conclusive settlement of all claims for the equalization of allotments in the Creek Nation: And provided further, That as a condition precedent to any such payment the Creek National Council shall pass an Act, in form approved by the Secretary of the Interior, discharging the United States from all claim and demand on this account.

The tribal councils when meeting shall receive compensation only for the length of time authorized by the Secretary of the Interior.

The town-lot payments in default shall not work forfeiture if payment, with ten per centum interest from date of such default, is made before December first, nineteen hundred and nine. All rights to acquire land for allotment by Choctaw and Chickasaw freedmen shall cease December first, nineteen hundred and ten. The surface only of the segregated coal and asphalt lands of the Choctaw and Chickasaw nation shall be subject to condemnation under the laws of the State of Oklahoma for state penal institutions, county and municipal purposes and for sewers and water systems: Provided, That the title to the surface of any lands so condemned shall revert to the Choctaw and Chickasaw nation upon its ceasing to be used for the purpose for which it was condemned and the tribal relation is hereby continued for such purpose and no title to any mineral rights in said lands so condemned shall be acquired hereunder. . . .

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EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved April 4, 1910.

(36 Stat. L. 269.)

**Chickasaw Freedmen Remnant Allotments.**

That Chickasaw freedmen having remnant allotments due them of not exceeding fifty dollars in value shall be paid twice the appraised value thereof in lieu of the amount necessary to complete their allotments, and the sum of twenty thousand dollars, or so much thereof as may be necessary, is hereby appropriated for such purpose: Provided, That there shall be deducted from the amount awarded the Choctaw and Chickasaw nations under section forty of the Act of July first, nineteen hundred and two (Thirty-second Statutes, six hundred and forty-one), in payment of allotments to Chickasaw freedmen, an amount equal to the sums paid such Chickasaw freedmen.

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EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved March 3, 1911.

(36 Stat. L. 1058.)

**Deeds to Tribal Lands—Tribal Contracts.**

SECTION 17. . . . That the Secretary of the Interior be, and he is hereby, authorized to designate an employee or employees of the Department of the Interior to sign, under the direction of the Secretary, in his name and for him, his approval of tribal deeds to allottees, to purchasers of town lots, to purchasers of unallotted lands, to persons, to corporations, or organizations for lands reserved to them under the law for their use and benefit, and to any tribal deeds made and executed

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according to law for any of the Five Civilized Tribes of Indians in Oklahoma. . . .

That tribal contracts which are necessary to the administration of the affairs of the Choctaw and Chickasaw Tribes of Indians may be made by the Secretary of the Interior: Provided, That contracts for professional legal services of attorneys may be made by the tribes for a stipulated amount and period, in no case exceeding one year in duration and five thousand dollars per annum in amount, with reasonable and necessary expenses to be approved and paid under the direction of the Secretary of the Interior, but such contracts for legal services shall not be any validity until approved by the President. . . .


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EXTRACTS FROM  
INDIAN APPROPRIATION ACT.

Approved August 24, 1912.

**Improvements—Coal and Asphalt Lands—Cemeteries.**

To enable the Secretary of the Interior to make the appraisal and sale hereinafter provided, five thousand dollars: Provided, That the houses and other valuable improvements, not including fencing and tillage, placed upon the segregated coal and asphalt lands in the Choctaw and Chickasaw Nations, in Oklahoma, by private individuals, while in actual possession of said land and prior to February nineteenth, nineteen hundred and twelve, and not purchased by the Indian Nations, shall be appraised independently of the surface of the land on which they are located and shall be sold with the land at public auction at not less than the combined appraised value of the improvements and the surface of the land upon which they are located. Said improvements shall be sold for cash and the appraisal and sale of the same shall be made under the direction of the Secretary of the Interior and ninety-five



per centum of the amount realized from the sale of the improvements shall be paid over under the direction of the Secretary of the Interior to the owner of the improvements and the appropriation hereinbefore made for this purpose shall be reimbursed out of the five per centum retained from the sale of the said improvements: Provided, That any improvements remaining unsold at the expiration of two years from the time when first offered for sale shall be sold under such regulations and terms of sale, independent of their appraised value, as the Secretary of the Interior may prescribe: Provided further, That persons owning improvements so appraised may remove the same at any time prior to the sale thereof, in which event the appraised value of the improvements and land shall be reduced by deducting the appraised value of the improvements so removed: Provided further, That this section shall not apply to improvements placed on said lands by coal and asphalt lessees for mining purposes, but improvements located on lands leased for mining purposes belonging to, or heretofore paid for by, the Choctaw and Chickasaw Nations shall be appraised and the appraised value thereof shall be added to the appraised value of the land at the time of the sale: Provided further, That where any cemetery now exists on the said segregated coal and asphalt lands, the surface of the land within said cemetery, together with the land adjoining the same, where necessary, not exceeding twenty acres in the aggregate to any one cemetery, and where a church was in existence on said lands on February nineteenth, nineteen hundred and twelve, land not exceeding one acre for each church may, in the discretion of the Secretary of the Interior, be sold to the proper party, association or corporation, under such terms, conditions and regulations as he may prescribe, provided application to purchase the same for such purpose is made within sixty days from the date of the approval of this Act.

That the Act of Congress approved February nineteenth, nineteen hundred and twelve (Public Number ninety-one), being "An Act to provide for the sale of the surface of the

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coal and asphalt lands of the Choctaw and Chickasaw Nations, and for other purposes," be, and the same is hereby, amended to provide that the classification and appraisalment of such lands shall be completed not later than December first, nineteen hundred and twelve.

# LAWS AFFECTING THE OSAGE NATION.

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## EXTRACTS FROM INDIAN APPROPRIATION ACT.

Approved March 3, 1905.

(33 Stat. L. 1061.)

The President is hereby authorized, in his discretion, to allot the lands of any tribes of Indians to the individual members thereof whenever, in his judgment, it is advantageous for such Indians that such allotments be made: Provided, That any allotments which may be made of the Osage Reservation in Oklahoma Territory shall be made subject to the terms and conditions of the lease herein authorized, the same being a renewal as to a part of the premises covered by a certain lease dated March sixteenth, eighteen hundred and ninety-six, given by the Osage Nation of Indians to Edwin B. Foster and approved by the Secretary of the Interior and now owned by the Indian Territory Illuminating Oil Company under assignments approved by the Secretary of the Interior, which said lease and all subleases thereof duly executed on or before December thirty-first, nineteen hundred and four, or executed after that date based upon contracts made prior thereto, and which have been or shall be approved by the Secretary of the Interior, to the extent of six hundred and eighty thousand acres in the aggregate, are hereby extended for the period of ten years from the sixteenth day of March, nineteen hundred and six, with all the conditions of said original lease except that from and after the sixteenth day of March, nineteen hundred and six, the royalty to be paid on gas shall be one hundred


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dollars per annum on each well, instead of fifty dollars as now provided in said lease, and except that the President of the United States shall determine the amount of royalty to be paid for oil. Said determination shall be evidenced by filing with the Secretary of the Interior on or before December thirty-first, nineteen hundred and five, such determination; and the Secretary of the Interior shall immediately mail to the Indian Territory illuminating Oil Company and each sublessee a copy thereof.

That there shall be created an Osage Townsite Commission consisting of three members, one of whom shall be the United States Indian Agent at the Osage Agency, one to be appointed by the Chief Executive of the Osage tribe and one by the Secretary of the Interior, who shall receive such compensation as the Secretary of the Interior may prescribe to be paid out of the proceeds of the sale of the lots sold under this Act.

That the Secretary of the Interior shall reserve from selection and allotment the south half of section four and the north half of section nine, township twenty-five north, range nine east, of the Indian meridian, including the town of Pawhuska, which, except the land occupied by the Indian school buildings, the agency reservoir, the Agent's office, the Council building and the residences of agency employees, and a twenty-acre tract of land including the Pawhuska cemetery, shall be surveyed, appraised and laid off into lots, blocks, streets and alleys by said Townsite Commission, under rules and regulations prescribed by the Secretary of the Interior, business lots to be twenty-five feet wide and residence lots fifty feet wide, and sold at public auction, after due advertisement, to the highest bidder by said Townsite Commission, under rules and regulations as may be prescribed by the Secretary of the Interior, and the proceeds of such sale shall be placed to the credit of the Osage tribe of Indians: Provided, That said lots shall be appraised at their real value exclusive of improvements thereon or adjacent thereto, and the improvements appraised separately: And provided further, That any person,



church, school or other association in possession of any of said lots and having permanent improvements thereon, shall have a preference right to purchase the same at the appraised value, but in case the owner of the improvements refuses or neglects to purchase the same, then such lots shall be sold at public auction at not less than the appraised value, the purchaser at such sale to have the right to take possession of the same upon paying the occupant the appraised value of the improvements. There shall in like manner be reserved from selection and allotment one hundred and sixty acres of land, to conform to the public surveys, including the buildings now used by the licensed traders and others, for a town site at the town of Hominy; and the south half of the northwest quarter and the north half of the southwest quarter of section seven, township twenty-four north, range six east, for a townsite at the town of Fairfax, and the northeast corner, section thirteen, township twenty-four, range five east, consisting of ten acres, to be used for cemetery purposes; and two townsites of one hundred and sixty acres each on the line of the Midland Valley Railroad Company adjacent to stations on said line, not less than ten miles from Pawhuska. And the town lots at said towns of Fairfax and Hominy and at said town sites on the line of the Midland Valley Railroad shall be surveyed, appraised and sold the same as provided for town lots in the town of Pawhuska.

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## OSAGE RECORDING ACT.


Approved June 4, 1906.

(34 Stat. L. 208.)

AN ACT PROVIDING FOR A RECORDER OF DEEDS,  
AND SO FORTH, IN THE OSAGE INDIAN RESERVATION,  
IN OKLAHOMA TERRITORY.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Osage Indian Reservation, in Oklahoma Territory, be, and the same is hereby, declared to be a recording district for the purpose of recording and filing such deeds, mortgages, and other instruments in writing as are authorized by the law of Oklahoma Territory affecting property within said reservation. And the deputy clerk of the District court located at the town of Pawhuska, on the said reservation, shall be ex officio register of deeds. As compensation for services the said recorder is hereby authorized to retain the fees legally collected by him for the recording of deeds and other instruments, up to and including the sum of one thousand eight hundred dollars per annum, and the fees collected by him shall be the same as are charged for like service in other recording districts in said Territory. Said recorder shall make monthly reports to the Secretary of the Interior of the fees collected by him, and said Secretary is hereby authorized to use such part of said fees as may be needed for the purchase of records, books, supplies, and expenses of said office. If the receipts of said office exceed the said sum of one thousand eight hundred dollars, the said excess shall be turned into the Treasury of the United States. This Act shall not be construed to in any way obligate the government to pay the said recorder any deficiency below the sum of one thousand eight hundred dollars yearly.

SECTION 2. That all deeds, papers, and other instruments recorded by said recorder in the Osage Nation shall have the



## OSAGE ALLOTMENT ACT.

same effect, legally or otherwise, as if recorded in the recording office of any regularly organized county in the Oklahoma Territory: Provided, That this Act shall become inoperative when the Osage Reservation shall become an organized county of Oklahoma, and all records shall be turned over to the proper county officer whenever such county is organized.

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## OSAGE ALLOTMENT ACT.

Approved June 28, 1906.

(34 Stat. L. 539.)


AN ACT FOR THE DIVISION OF THE LANDS AND  
FUNDS OF THE OSAGE INDIANS IN OKLAHOMA TERRITORY,  
AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the roll of the Osage tribe of Indians, as shown by the records of the United States in the office of the United States Indian agent at the Osage Agency, Oklahoma Territory, as it existed on the first day of January, nineteen hundred and six, and all children born between January first, nineteen hundred and six, and July first, nineteen hundred and seven, to persons whose names are on said roll on January first, nineteen hundred and six, and all children whose names are not now on said roll, but who were born to members of the tribe whose names were on the said roll on January first, nineteen hundred and six, including the children of members of the tribe who have, or have had, white husbands, is hereby declared to be the roll of said tribe and to constitute the legal membership thereof: Provided, That the principal chief of the Osages shall, within three months from and after the approval of this Act, file with the Secretary of the Interior a list of the names which

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the tribe claims were placed upon the roll by fraud, but no name shall be included in said list of any person or his descendants that was placed on said roll prior to the thirty-first day of December, eighteen hundred and eighty-one, the date of the adoption of the Osage constitution, and the Secretary of the Interior, as early as practicable, shall carefully investigate such cases and shall determine which of said persons, if any, are entitled to enrollment; but the tribe must affirmatively show what names have been placed upon said roll by fraud; but where the rights of persons to enrollment to the Osage roll have been investigated by the Interior Department and it has been determined by the Secretary of the Interior that such persons were entitled to enrollment, their names shall not be stricken from the roll for fraud except upon newly discovered evidence; and the Secretary of the Interior shall have authority to place on the Osage roll the names of all persons found by him, after investigation, to be so entitled, whose applications were pending on the date of the approval of this Act; and the said Secretary of the Interior is hereby authorized to strike from the said roll names of persons or their descendants which he finds were placed thereon by or through fraud, and the said roll as above provided, after the revision and approval of the Secretary of the Interior, as herein provided, shall constitute the approved roll of said tribe; and the action of the Secretary of the Interior in the revision of the roll as herein provided shall be final, and the provisions of the Act of Congress of August fifteenth, eighteen hundred and ninety-four, Twenty-eighth Statutes at Large, page three hundred and five, granting persons of Indian blood who have been denied allotments the right to appeal to the courts, are hereby repealed as far as the same relate to the Osage Indians; and the tribal lands and tribal funds of said tribe shall be equally divided among the members of said tribe as hereinafter provided.

SEC. 2. That all lands belonging to the Osage tribe of Indians in Oklahoma Territory, except as herein provided,



shall be divided among the members of said tribe, giving to each his or her fair share thereof in acres, as follows:

First. Each member of said tribe, as shown by the roll of membership made up as herein provided, shall be permitted to select one hundred and sixty acres of land as a first selection; and the adult members shall select their first selections and file notice of the same with the United States Indian agent for the Osages within three months after the approval of this Act: Provided, That all selections of lands heretofore made by any member of said tribe, against which no contest is pending, be, and the same are hereby, ratified and confirmed as one of the selections of such member. And if any adult member fails, refuses, or is unable to make such selection within said time, then it shall be the duty of the United States Indian agent for the Osages to make such selection for such member or members, subject to the approval of the Secretary of the Interior. That all said first selections for minors shall be made by the United States Indian agent for the Osages subject to the approval of the Secretary of the Interior: Provided, That said first selections for minors having parents may be made by said parents, and the word "minor" or "minors" used in this Act shall be held to mean those who are under twenty-one years of age: And provided further, That all children born to members of said tribe between January first, nineteen hundred and six, and the first day of January, nineteen hundred and seven, shall have their selections made for them within six months after approval of this Act, or within six months after their respective births. That all children born to members of said tribe on and after the first day of January, nineteen hundred and seven, and before the first day of July, nineteen hundred and seven, shall have their selections made for them on or before the last day of July, nineteen hundred and seven, the proof of birth of such children to be made to the United States Indian agent for the Osages.


Second. That in making his or her first selection of land, as herein provided for, a member shall not be permitted to

select land already selected by, or in possession of, another member of said tribe as a first selection, unless such other member is in possession of more land than he and his family are entitled to for first selections under this Act; and in such cases the member in possession and having houses, orchards, barns, or plowed land thereon shall have the prior right to make the first selection: Provided, That where members of the tribe are in possession of more land than they are entitled to for first selections herein, said members shall have sixty days after the approval of this Act to dispose of the improvements on said lands to other members of the tribe.

Third. After each member has selected his or her first selection as herein provided, he or she shall be permitted to make a second selection of one hundred and sixty acres of land in the manner herein provided for the first selection.

Fourth. After each member has selected his or her second selection of one hundred and sixty acres of land as herein provided, he or she shall be permitted to make a third selection of one hundred and sixty acres of land in the manner herein provided for the first and second selections: Provided, That all selections herein provided for shall conform to the existing public surveys in tracts of not less than forty acres, or a legal subdivision of a less amount, designated a "lot." Each member of said tribe shall be permitted to designate which of his three selections shall be a homestead, and his certificate of allotment and deed shall designate the same as a homestead, and the same shall be inalienable and nontaxable until otherwise provided by Act of Congress. The other two selections of each member, together with his share of the remaining lands allotted to the member, shall be known as surplus land, and shall be inalienable for twenty-five years, except as hereinafter provided.

Fifth. After each member has selected his or her first, second, and third selections of one hundred and sixty acres of land, as herein provided, the remaining lands of said tribe in Oklahoma Territory, except as herein provided, shall be di-



vided as equally as practicable among said members by a commission to be appointed to supervise the selection and division of said Osage lands.

Sixth. The selection and division of lands herein provided for shall be made under the supervision of, or by, a commission consisting of one member of the Osage tribe, to be selected by the Osage council, and two persons to be selected by the Commissioner of Indian Affairs subject to the approval of the Secretary of the Interior; and said commission shall settle all controversies between members of the tribe relative to said selections of land; and the schedules of said selections and division of lands herein provided for shall be subject to the approval of the Secretary of the Interior. The surveys, salaries of said commission, and all other proper expenses necessary in making the selections and division of land as herein provided shall be paid by the Secretary of the Interior, out of any Osage funds derived from the sale of town lots, royalties from oil, gas, or other minerals, or rents from grazing land.


Seventh.. That the Secretary of the Interior, in his discretion, at the request and upon the petition of any adult member of the tribe, may issue to such member a certificate of competency, authorizing him to sell and convey any of the lands deeded him by reason of this Act, except his homestead, which shall remain inalienable and nontaxable for a period of twenty-five years, or during the life of the homestead allottee, if upon investigation, consideration, and examination of the request he shall find any such member fully competent and capable of transacting his or her own business and caring for his or her own individual affairs: Provided, That upon the issuance of such certificate of competency the lands of such member (except his or her homestead) shall become subject to taxation, and such member, except as herein provided, shall have the right to manage, control, and dispose of his or her lands the same as any citizen of the United States: Provided, That the surplus lands shall be nontaxable for the period of three years from the approval of this Act, except where certificates

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of competency are issued or in case of the death of the allottee, unless otherwise provided by Congress: And provided further, That nothing herein shall authorize the sale of the oil, gas, coal, or other minerals covered by said lands, said minerals being reserved to the use of the tribe for a period of twenty-five years, and the royalty to be paid to said tribe as hereinafter provided: And provided further, That the oil, gas, coal, and other minerals upon said allotted lands shall become the property of the individual owner of said land at the expiration of said twenty-five years, unless otherwise provided for by Act of Congress.

Eighth. There shall be reserved from selection and division, as herein provided, one hundred and sixty acres on which the Saint Louis School, near Pawhuska, is located, and one hundred and sixty acres on which the Saint John's School, on Hominy Creek, Osage Indian Reservation, is located, said tracts to conform to the public surveys; and said tracts of land are hereby set aside and donated to the order of the Sisters of Saint Francis; and said tracts shall be conveyed to said order, the Sisters of Saint Francis, as early as practicable, by deed. There shall also be reserved from selection and division forty acres of land near Gray Horse, to be designated by the Secretary of the Interior, on which are located the dwelling houses of John N. Florer, Walter O. Florer, and John L. Bird; and said John N. Florer shall be allowed to purchase said forty acres at the appraised value placed thereon by the Osage Allotting Commission, the proceeds of the sale to be placed to the credit of the Indians and to be distributed like other funds herein provided for.

Ninth. There shall be reserved from selection and division, as herein provided, the northeast quarter of section three, township twenty-five, range nine east, of the Indian meridian, and one and sixty acres to conform to the public survey at the town of Gray Horse, including the Government doctor's building, other valuable buildings, and the cemetery, and the one hundred and sixty acres to conform to the public survey, ad-



joining or near the town site of Hominy; said lands or tracts are hereby set aside for the use and benefit of the Osage Indians, exclusively, for dwelling purposes, for a period of twenty-five years from and after the first day of January, nineteen hundred and seven: Provided, That said land may, in the discretion of the Osage tribe, be sold under such rules and regulations as the Secretary of the Interior may prescribe; and the proceeds of the same under such sale shall be apportioned and placed to the credit of the individual members of the tribe according to the roll herein provided for.

Tenth. The Osage Boarding School reserve of eighty-seven and five-tenths acres, and the reservoir reserve of seventeen and three-tenths acres, and the agent's residence reserve, together with all the buildings located on said reservations in the town site of Pawhuska, as shown by the official plat of the same, are hereby reserved from selection and division as herein provided; and the same may be sold in the discretion of the Osage tribe, under such rules and regulations as the Secretary of the Interior may provide; and the proceeds of such sale shall be apportioned and placed to the credit of the individual members of said tribe according to the roll herein provided for.

Eleventh. That the United States Indian agent's office building, the Osage council building, and all other buildings which are for the occupancy and use of Government employees, in the town of Pawhuska, together with the lots on which the said buildings are situated, shall be sold to the highest bidder as early as practicable, under such rules and regulations as the Secretary of the Interior may prescribe; and with the proceeds he shall erect other suitable buildings for the uses mentioned, on such sites as he may select, the remaining proceeds, if any, to be placed to the credit of the individual members of the Osage tribe of Indians: Provided, That the house known as the chief's house, together with the lot or lots on which said house is located, and the house known as the United States interpreter's house, in Pawhuska, Oklahoma Territory, to-

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gether with the lot or lots on which said houses are located, shall be reserved from sale to the highest bidder and shall be sold to the principal chief of the Osages and the United States interpreter for the Osages, respectively, at the appraised value of the same, said appraisement to be made by the Osage town-site commission, subject to the approval of the Secretary of the Interior.

Twelfth. That the cemetery reserve of twenty acres in the town site of Pawhuska, as shown by the official plat thereof, is hereby set aside and donated to the town of Pawhuska for the purposes of sepulture, on condition that if said cemetery reserve of twenty acres, or any part thereof, is used for purposes other than that of sepulture, the whole of said cemetery reserve of twenty acres shall revert to the use and benefit of the individual members of the Osage tribe, according to the roll herein provided, or to their heirs; and said tract shall be conveyed to the said town of Pawhuska by deed, and said deed shall recite and set out in full the conditions under which the above donation and conveyance are made.

That the provisions of an Act entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes," approved March third, nineteen hundred and five, relating to the Osage Reservation, pages one thousand and sixty-one and one thousand and sixty-two, volume thirty-three, United States Statutes at Large, be, and the same are hereby, continued in full force and effect.

Clawson v. Cottingham, 125 Pac. 1114.

Neilson v. Alberty, 129 Pac. 847.

SEC. 3. That the oil, gas, coal, or other minerals covered by the lands for the selection and division of which provision is herein made are hereby reserved to the Osage tribe for a period of twenty-five years from and after the eighth day of

April, nineteen hundred and six; and leases for all oil, gas, and other minerals, covered by selections and division of land herein provided for, may be made by the Osage tribe of Indians through its tribal council, and with the approval of the Secretary of the Interior, and under such rules and regulations as he may prescribe: Provided, That the royalties to be paid to the Osage tribe under any mineral lease so made shall be determined by the President of the United States: And provided further, That no mining of or prospecting for any of said mineral or minerals shall be permitted on the homestead selections herein provided for without the written consent of the Secretary of the Interior: Provided, however, That nothing herein contained shall be construed as affecting any valid existing lease or contract.

SEC. 4. That all funds belonging to the Osage tribe, and all moneys due, and all moneys that may become due, or may hereafter be found to be due the said Osage tribe of Indians, shall be held in trust by the United States for the period of twenty-five years from and after the first day of January, nineteen hundred and seven, except as herein provided:

First. That all the funds of the Osage tribe of Indians, and all the moneys now due or that may hereafter be found to be due to the said Osage tribe of Indians, and all moneys that may be received from the sale of their lands in Kansas under existing laws, and all moneys found to be due to said Osage tribe of Indians on claims against the United States, after all proper expenses are paid, shall be segregated as soon after January first, nineteen hundred and seven, as is practicable and placed to the credit of the individual members of the said Osage tribe on a basis of a pro rata division among the members of said tribe, as shown by the authorized roll of membership as herein provided for, or to their heirs as hereinafter provided, said credit to draw interest as now authorized by law; and the interest that may accrue thereon shall be paid quarterly to the members entitled thereto, except in the case of minors, in which case the interest shall be paid quarterly to

the parents until said minor arrives at the age of twenty-one years: Provided, That if the Commissioner of Indian Affairs becomes satisfied that the said interest of any minor is being misused or squandered he may withhold the payment of such interest: And provided further, That said interest of minors, whose parents are deceased, shall be paid to their legal guardians, as above provided.

Second. That the royalty received from oil, gas, coal, and other mineral leases upon the lands for which selection and division are herein provided, and all moneys received from the sale of town lots, together with the buildings thereon, and all moneys received from the sale of the three reservations of one hundred and sixty acres each heretofore reserved for dwelling purposes, and all moneys received from grazing lands, shall be placed in the Treasury of the United States to the credit of the members of the Osage tribe of Indians as other moneys of said tribe are to be deposited under the provisions of this Act, and the same shall be distributed to the individual members of said Osage tribe according to the roll provided for herein, in the manner and at the same time that payments are made of interest on other moneys held in trust for the Osages by the United States, except as herein provided.

Third. There shall be set aside from the royalties received from oil and gas not to exceed fifty thousand dollars per annum for ten years from the first day of January, nineteen hundred and seven, for the support of the Osage Boarding School and for other schools on the Osage Indian Reservation conducted or to be established and conducted for the education of Osage children.

Fourth. There shall be set aside and reserved from the royalties received from oil, gas, coal, or other mineral leases, and moneys received from the sale of town lots, and rents, from grazing lands not to exceed thirty thousand dollars per annum for agency purposes and an emergency fund for the Osage tribe, which shall be paid out from time to time, upon the requisition of the Osage tribal council, with the approval of the Secretary of the Interior.

SEC. 5. That at the expiration of the period of twenty-five years from and after the first day of January, nineteen hundred and seven, the lands, mineral interests, and moneys, herein provided for and held in trust by the United States shall be the absolute property of the individual members of the Osage tribe, according to the roll herein provided for, or their heirs, as herein provided, and deeds to said lands shall be issued to said members, or to their heirs, as herein provided, and said moneys shall be distributed to said members, or to their heirs, as herein provided, and said members shall have full control of said lands, moneys, and mineral interests, except as herein-before provided.

SEC. 6. That the lands, moneys, and mineral interests, herein provided for, of any deceased member of the Osage tribe shall descend to his or her legal heirs, according to the laws of the Territory of Oklahoma, or of the State in which said reservation may be hereinafter incorporated, except where the decedent leaves no issue, nor husband nor wife, in which case said lands, moneys, and mineral interests must go to the mother and father equally.

SEC. 7. That the lands herein provided for are set aside for the sole use and benefit of the individual members of the tribe entitled thereto, or to their heirs, as herein provided; and said members, or their heirs, shall have the right to use and to lease said lands for farming, grazing, or any other purpose not otherwise specifically provided for herein, and said members shall have full control of the same, including the proceeds thereof: Provided, That parents of minor members of the tribe shall have the control and use of said minors' lands, together with the proceeds of the same, until said minors arrive at their majority: And provided further, That all leases given on said lands for the benefit of the individual members of the tribe entitled thereto, or for their heirs, shall be subject only to the approval of the Secretary of the Interior.

SEC. 8. That all deeds to said Osage lands or any part thereof shall be executed by the principal chief for the Osages,

but no such deeds shall be valid until approved by the Secretary of the Interior.

SEC. 9. That there shall be a biennial election of officers for the Osage tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage tribal council to succeed the officers elected in the year nineteen hundred and six, said officers to be elected at a general election to be held in the town of Pawhuska, Oklahoma Territory, on the first Monday in June; and the first election for said officers shall be held on the first Monday in June, nineteen hundred and eight, in the manner to be prescribed by the Commissioner of Indian Affairs, and said officers shall be elected for a period of two year, commencing on the first day of July following said election, and in case of a vacancy in the office of principal chief, by death, resignation, or otherwise, the assistant principal chief shall succeed to said office, and all vacancies in the Osage tribal council shall be filled in a manner to be prescribed by the Osage tribal council, and the Secretary of the Interior is hereby authorized to remove from the council any member or members thereof for good cause, to be by him determined.

SEC. 10. That public highways or roads, two rods in width, being one rod on each side of all section lines, in the Osage Indian Reservation, may be established without any compensation therefor.

*Mills v. Glasscock*, 26 Okla. 123, 110 Pac. 377.

SEC. 11. That all lands taken or condemned by any railroad company in the Osage Reservation, in pursuance of any Act of Congress or regulation of the Department of the Interior, for rights of way, station grounds, side tracks, stock pens and cattle yards, water stations, terminal facilities, and any other railroad purpose, shall be, and are hereby, reserved from selection and allotment and confirmed in such railroad companies for their use and benefit in the construction, operation, and maintenance of their railroads: Provided, That such railroad companies shall not take or acquire hereby any right or title to any oil, gas, or other mineral in any of said lands.

SEC. 12. That all things necessary to carry into effect the provisions of this Act not otherwise herein specifically provided for shall be done under the authority and direction of the Secretary of the Interior.

United States v. Aaron, 183 Fed. 347.

United States Board of Co. Com'rs, 183 Fed. 485.

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Act of Congress, Approved March 3, 1909.

(35 Stat. L. 77.)

AN ACT AUTHORIZING THE SECRETARY OF THE INTERIOR TO SELL PART OR ALL OF THE SURPLUS LANDS OF MEMBERS OF THE KAW OR KANSAS AND OSAGE TRIBES OF INDIANS IN OKLAHOMA, AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That the Secretary of the Interior be, and he hereby is, authorized and empowered, upon application, to sell, under such rules and regulations as he may prescribe, part or all of the surplus lands of any member of the Kaw or Kansas and Osage tribes of Indians in Oklahoma: Provided, That the sales of the Osage lands shall be subject to the reserved rights of the tribe in oil, gas, and other minerals.

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JOINT RESOLUTION NO. 19.

Approved February 27, 1909.

(35 Stat. L. 1167.)

JOINT RESOLUTION RELATIVE TO HOMESTEAD DESIGNATIONS, MADE AND TO BE MADE, OF MEMBERS OF THE OSAGE TRIBE OF INDIANS.

RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF

AMERICA IN CONGRESS ASSEMBLED, That homesteads of members of the Osage Tribe of Indians in Oklahoma may consist of land designated from any one or more of their first three allotment selections taken under the Act of Congress approved June twenty-eighth, nineteen hundred and six, entitled, "An Act for the division of the lands and funds of the Osage Indians in Oklahoma Territory, and for other purposes," the designation thereof to be subject to approval by the Secretary of the Interior.

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EXTRACT FROM  
INDIAN APPROPRIATION ACT,

Approved March 3, 1911.

(36 Stat. L. 1062.)

That the Secretary of the Interior shall close the account known as the civilization fund created by article one of the treaty with the Osage Indians, dated September twenty-ninth, eighteen hundred and sixty-five (Fourteenth Statutes at Large, page six hundred and eighty-seven), and cause the balance of any unexpended moneys in that fund to be covered into the Treasury, and thereafter it shall not be withdrawn or applied except in consequence of a subsequent appropriation by law; and that section eleven of the Indian appropriation Act for the fiscal year eighteen hundred and ninety-eight, approved June seventh, eighteen hundred and ninety-seven (Thirtieth Statutes at Large, page ninety-three), is hereby repealed.

# INDIAN LAWS OF DESCENT.

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## CREEK NATION.

Laws of the Creek Nation, Compilation of 1880.

### SECTION 8 OF ARTICLE 10, CHAPTER X.

#### Administration of Property.

The lawful or acknowledged wife of a deceased husband shall be entitled to one-half of the estate, if there are no other heirs, and an heir's part, if there should be other heirs, in all cases where there is no will. The husband surviving shall inherit of a deceased wife in like manner.

### SECTION 1 OF ARTICLE 11, CHAPTER XII.

#### Unrecognized Offspring.

Should any person or persons appear, claiming to be the child or children of any deceased male citizen of this Nation, should it be proved that such deceased citizen did not during life recognize such person or persons as offspring, then such persons shall not be entitled to any share in the estate of the deceased.

Civil Laws, Approved October 12, 1867, and not repealed.

6. Be it further enacted, That if any person die without a will, having property and children, the property shall be equally divided among the children by disinterested persons; and in all cases where there are no children, the nearest relation shall inherit the property.

Laws of the Creek Nation, Perryman Compilation of 1890.

(Same as the above quoted Sections from the Compilation of 1880.)

Laws of the Creek Nation, McKellop Compilation of 1893.

Chapter XIV. Wills and Administration.

SECTION 258. If any person claim to be the child of a deceased male person, and it should be proven that such person did not, during life, recognize the claimant as his offspring, then such claimant shall not be entitled to any share in the estate of the deceased.

SEC. 267. The lawful or acknowledged wife of a deceased husband shall be entitled to one-half of the estate, if there are no children, and a child's part, if there should be children, in all cases where there is no will. The husband surviving shall inherit of deceased wife in like manner.

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CHOCTAW NATION.

Laws of the Choctaw Nation, Compiled by A. R. Durant.

Judicial Department.

Section VI. County Courts and Courts of Probate.

12. The property of all persons who die intestate, or without a will, shall descend to his legal wife, or husband, and their children; and in case such deceased person has neither wife, nor husband, nor children, his or her grandchildren (if any) shall inherit the estate; and in case there is no grandchild the father or mother of such deceased person, or either of them shall heir the estate; and in case such deceased person has neither wife, nor husband, children or grandchildren, or father or mother, his or her estate shall go to his or her brothers and sisters, and if none, to their lawful children. Should there be none of the above mentioned relatives to the

intestate deceased person, the estate shall descend to the half brothers and sisters of the deceased person and to their legal issue.

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CHICKASAW NATION.

An Act in Relation to the Descent of Property.

Approved 1876.

1. Be it enacted by the Legislature of the Chickasaw Nation, That from and after the passage of this Act, the property of all persons who die intestate or without a will, shall descend to the legal wife or husband, and their children.
2. Be it further enacted, that in case such deceased person has neither wife, nor husband, nor children his or her grandchildren (if any), shall inherit the estate.
3. Be it further enacted, that in case there be no grandchildren, then the brother or sister shall inherit the estate, and the next of kin shall be the father and mother, or either of them.
4. Be it further enacted, that in case such person had neither wife nor husband, children or grandchildren, brother or sister, father or mother, then the property shall descend to the half brothers and sisters of the deceased and their legal issue.

## CHEROKEE NATION.

Laws of the Cherokee Nation, Compilation of 1892.

## Chapter IX, Article IV.

## Descent of Property.

SECTION 518. Whenever any person shall die possessed of property not devised, the same shall descend in the following order, to wit:

1st. In equal parts to the husband or wife, and the children of such intestate, and their descendants; the descendants of a deceased child, or grandchild, to take the share of the deceased parent equally among them.

2nd. To the father and mother equally, or to the survivor of them.

3rd. In equal parts to the brothers and sisters of such intestate, and their descendants; the descendants of brothers and sisters, to take the share of the deceased parent equally among them.

4th. When there are none of the foregoing persons to inherit, the property of such deceased person shall go to his next of kin by blood. Kindred of the whole and half blood, in the same degree, shall inherit equally.

5th. The property of intestates, who have no surviving relative to inherit as above, shall escheat to the treasury of the Nation, to be placed to the credit of the orphan fund.

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[Ed. Note:—This act was not published in Statutes at Large at time of compilation of this book.]

AN ACT SUPPLEMENTARY TO AND AMENDATORY OF THE ACT ENTITLED "AN ACT FOR THE DIVISION OF THE LANDS AND FUNDS OF THE OSAGE NATION OF INDIANS IN OKLAHOMA," APPROVED JUNE TWENTY-EIGHTH, NINETEEN HUNDRED AND SIX, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That until the inherited lands of the deceased members of the Osage Tribe of Indians shall be partitioned or sold the Secretary of the Interior be, and he hereby is, authorized to pay the taxes on said land out of any money due and payable to the heirs from the segregated decedent's funds in the Treasury of the United States.

**Sec. 2.** That the Secretary of the Interior be, and he hereby is, authorized, where the same would be to the best interests of Osage allottees, and the same is submitted to the Osage council for recommendation and approved by it, to permit the exchange of surplus allotments, or any portions thereof, of Osage allottees under such rules and regulations as he may prescribe and upon such terms as he shall approve. The Secretary shall have authority to do any and all things necessary to make these exchanges effective.

**Sec. 3.** That the property of deceased and of orphan minor, insane, or other incompetent allottees of the Osage Tribe, such incompetency being determined by the laws of the State of Oklahoma, which are hereby extended for such purpose to the allottees of said tribe, shall, in probate matters, be subject to the jurisdiction of the county courts of the State of Oklahoma, but a copy of all papers filed in the county court shall be served on the superintendent of the Osage Agency at the time of filing, and said superintendent is authorized, whenever the interests of the allottee require, to appear in the county court for the protection of the interests of the allottee. The superintendent of the Osage Agency or the Secretary of the Interior, whenever he deems the same necessary, may investigate the conduct of execu-

tors, administrators, and guardians or other persons having in charge the estate of any deceased allottee or of minors or persons incompetent under the laws of Oklahoma, and whenever he shall be of opinion that the estate is in any manner being dissipated or wasted or is being permitted to deteriorate in value by reason of the negligence, carelessness, or incompetency of the guardian or other person in charge of the estate, the superintendent of the Osage Agency or the Secretary of the Interior or his representative shall have power, and it shall be his duty, to report said matter to the county court and take the necessary steps to have such case fully investigated, and also to prosecute any remedy, either civil or criminal, as the exigencies of the case and the preservation and protection of the interests of the allottee or his estate may require, the costs and expenses of the civil proceedings to be a charge upon the estate of the allottee or upon the executor, administrator, guardian, or other person in charge of the estate of the allottee and his surety, as the county court shall determine. Every bond of the executor, administrator, guardian, or other person in charge of the estate of any Osage allottee shall be subject to the provisions of this section and shall contain therein a reference hereto: **Provided**, That no guardian shall be appointed for a minor whose parents are living, unless the estate of said minor is being wasted or misused by such parents: **Provided further**, That no land shall be sold or alienated under the provisions of this section without the approval of the Secretary of the Interior.

**Sec. 4.** That nothing herein shall be construed as in any way changing the rights of the Osage Tribe in oil, gas, coal and other minerals as fixed in the Osage Act of June twenty-eighth, nineteen hundred and six, or in any manner be construed to change or amend the provisions of said Act in regard to oil, gas, coal, or other minerals.

**Sec. 5.** That the Secretary of the Interior, in his discretion, hereby is authorized, under rules and regulations to be prescribed by him and upon application therefor, to pay to Osage allottees, including the blind, insane, crippled, aged, or helpless, all or part of the funds in the Treasury of the United States to their individual credit: **Provided**, That he shall be first satisfied of the competency of the allottee or that the release of said individual trust funds would be to the manifest best interests and welfare of the allottee: **Provided further**, That no trust funds of

a minor or a person above mentioned who is incompetent shall be released and paid over except to a guardian of such person duly appointed by the proper court and after the filing by such guardian and approval by the court of a sufficient bond conditioned to faithfully administer the funds released and the avails thereof.

**Sec. 6.** That from and after the approval of this act the lands of deceased Osage allottees, unless the heirs agree to partition the same, may be partitioned or sold upon proper order of any court of competent jurisdiction in accordance with the laws of the State of Oklahoma: **Provided,** That no partition or sale of the restricted lands of a deceased Osage allottee shall be valid until approved by the Secretary of the Interior. Where some of the heirs are minors, the said court shall appoint a guardian ad litem for said minors in the matter of said partition, and partition of said land shall be valid when approved by the court and the Secretary of the Interior. When the heirs of such deceased allottees have certificates of competency or are not members of the tribe, the restrictions on alienation are hereby removed. If some of the heirs are competent and others have not certificates of competency, the proceeds of such part of the sale as the competent heirs shall be entitled to shall be paid to them without the intervention of an administrator. The shares due minor heirs, including such minor Indian heirs as may not be tribal members and those Indian heirs not having certificates of competency, shall be paid into the Treasury of the United States and placed to the credit of the Indians upon the same conditions as attach to segregated shares of the Osage national fund, or with the approval of the Secretary of the Interior paid to the duly appointed guardian. The same disposition as herein provided for with reference to the proceeds of inherited lands sold shall be made of the money in the Treasury of the United States to the credit of deceased Osage allottees.

**Sec. 7.** That the lands allotted to members of the Osage tribe shall not in any manner whatsoever be encumbered, taken, or sold to secure or satisfy any debt or obligation contracted or incurred prior to the issuance of a certificate of competency, or removal of restrictions on alienation; nor shall the lands or funds of Osage tribal members be subject to any claim against the same arising prior to grant of a certificate of competency. That no lands or moneys inherited from Osage allottees shall be

subject to or be taken or sold to secure the payment of any indebtedness incurred by such heir prior to the time such lands and moneys are turned over to such heirs: **Provided, however,** That inherited moneys shall be liable for funeral expenses and expenses of last illness of deceased Osage allottees, to be paid upon order of the county court of Osage County, State of Oklahoma: **Provided further,** That nothing herein shall be construed so as to exempt any such property from liability for taxes.

**Sec. 8.** That any adult member of the Osage Tribe of Indians not mentally incompetent may dispose of any or all of his estate, real, personal, or mixed, including trust funds, from which restrictions as to alienation have not been removed, by will, in accordance with the laws of the State of Oklahoma: **Provided,** That no such will shall be admitted to probate or have any validity unless approved before or after the death of the testator by the Secretary of the Interior.

**Sec. 9.** The word "competent," as used in this Act, shall mean a person to whom a certificate has been issued authorizing alienation of all the lands comprising his allotment, except his homestead.

**Sec. 10.** That section four, paragraph four, of the Osage Allotment Act, approved June twenty-eighth, nineteen hundred and six, be, and the same hereby is, amended to read as follows:

"Fourth. There shall be set aside and reserved from the royalties received from oil, gas or other tribal mineral rights or other tribal funds, however arising, not to exceed forty thousand dollars per annum for agency purposes and as an emergency fund, which money shall be paid out from time to time upon the requisition of the Osage tribal council with the approval of the Secretary of the Interior: **Provided,** That the provision in the Act entitled 'An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes,' approved June seventh, eighteen hundred and ninety-seven (Thirtieth Statutes at Large page ninety), limiting the amount of money to be expended for salaries of regular employees at any one agency shall not hereafter apply to the Osage Agency."

**Sec. 11.** That all Acts or parts of Acts inconsistent herewith be, and the same hereby are, repealed.

Approved, April 18, 1912.

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